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U.S. Fish and Wildlife Service
Fishery Resources Program

# *Statement of Responsibilities & Role*

*January 31, 1985*

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U.S. Fish and Wildlife Service
Fishery Resources Program

# *Statement of Responsibilities & Role*

*January 31, 1985*

# FOREWORD

Federal stewardship of the Nation's varied and valuable fishery resources dates from the creation of the position of Commissioner of Fish and Fisheries by the Congress in 1871. That initial Federal involvement was in response to concern over the widespread decline in domestic foodfish supplies. Over the subsequent 114 years, Federal fishery resource involvement and responsibilities have grown, diversified, and undergone several major modifications in response to continually changing needs. These program shifts and expansions evolved to address the circumstances of each era. Thus, it was recognized in recent years that an examination of the Service's Fishery Resources Program was warranted to assure that its responsibilities and role are properly scoped and focused to meet resource needs today — and into the future.

More than two years of effort went into redefining the character and extent of the Service's Fishery Resources Program. This document — the result of that initiative — identifies and describes four responsibilities that will henceforth be the focus of the Service's reoriented Fishery Resources Program. Also outlined is the general approach to be taken over the next few years in conjunction with other Federal agencies, the States and tribes, and interested organizations in discharging these responsibilities, which are:

- To facilitate restoration of depleted, nationally significant fishery resources.
- To seek and provide for mitigation of fishery resource impairment due to Federal water-related development.
- To assist with management of fishery resources on Federal (primarily Service) and Indian lands.
- To maintain a Federal leadership role in scientifically based management of national fishery resources.

This initiative has involved a large number of people. They represented not only the Fishery Resources Program itself, but also other Service programs as well as the Department's policy and budget offices. All made significant contributions to this document. I am grateful for this broad participation and am confidnet the worth of their endeavor will be amply demonstrated as the systematic and comprehensive implementation of the redefined responsibilities of the Fishery Resources Program is carried out over the next several years. For, clearly, the *Statement* is only a beginning. While already substantially aligned with its redefined responsibilities and role, more can be done to conform the Fishery Resources Program to its revised responsibilities.

The focus of the Fishery Resources Program into the foreseeable future has been clearly delineated. Secretary Hodel has affirmed that the four responsibilities set the proper and desirable course for the Service's Fishery Resources Program. With the cooperation of the States, tribes, companion Federal entities, and other concerned organizations, the Service fully anticipates to realize substantial benefits for nationally significant fishery resources — and for the citizens of this Nation.

April 1985

Robert A. Jantzen

Robert A. Jantzen
Director, U.S. Fish and
Wildlife Service

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U.S. Fish and Wildlife Service
Fishery Resources Program

# Statement of Responsibilities and Role

## EXECUTIVE SUMMARY

This statement defines the responsibilities and role of the U.S. Fish and Wildlife Service (FWS) as a major and integral contributor to the stewardship of the Nation's fishery resources. It serves both as a new basis for the Service's Fishery Resources Program and as guidance for implementation of the Service's near- and long-term contributions to fishery resource protection and management.

### Need for Redefinition of Program Responsibilities

Federal statutory responsibilities for stewardship of the Nation's diverse and valuable fishery resources date from 1871 when Congress established the position of Commissioner of Fish and Fisheries in response to concern about the decline in domestic foodfish supplies. Subsequently, the kinds of fishery resource activities involving the Federal Government have expanded and changed greatly. The factors causing this growth and evolution are numerous, varied, and complex. Three, however, have been central in shaping Federal fishery resource responsibilities:

- Continually growing, broad-based *awareness* of the importance of fishery resources, especially as a focus of recreation and source of low-cost food.
- Increasing *recognition* of the finiteness of fishery resources and of the consequences of their unregulated use as well as the degradation, if not destruction, of their habitat.
- Evolving *need* for more comprehensive and better-coordinated management of fishery resources.

The acceptance by States and tribes of responsibility for managing fishery resources has also affected the kind and degree of Federal fishery-related activity. Because of their substantial and still-growing technical capabilities, State fishery agencies and Indian tribes are undertaking many tasks formerly performed by the Federal Government.

A major factor inducing a reassessment of Federal fishery resource responsibility, role, and activity is the imperative to improve administrative efficiency. In addition, increasing emphasis has been placed on "users" paying for the benefits that are derived from or necessitate fisheries work performed by Federal agencies. In many cases, the beneficiaries are groups other than fishermen. With respect to mitigation of resource damage, for instance, the real beneficiaries are those who realize the services provided by the water projects that created the need for mitigation in the first place, namely, electric power consumers, irrigators, shippers, etc.

Almost from the beginning of Federal involvement with fishery resources, there has been a fundamental dichotomy in programs built around commercial and sport (or recreational) use of the Nation's fishery resources, both marine and inland. This statement addresses *interjurisdictional* anadromous, Great Lakes, and other inland, and estuarine fishery resources, whose conservation the FWS views as a major responsibility it shares at the Federal level.

### Identification of Program Responsibilities

In light of these circumstances, it has been necessary and desirable to critically examine and clarify FWS responsibilities for, and role in, the management of national fishery resources. This future direction and the responsibilities of the Service's Fishery Resources Program have been methodically and rigorously redefined in terms of the resources themselves, not in terms of resource management functions; i.e., they were viewed on the basis of *what* has to be done ("ends") rather than on *how* related program objectives will be attained ("means" to an end). A wide range of options was examined, assuring good representation of past and current activity aimed at fish and fisheries in the United States. This statement presents the results of that exercise.

To identify what needs it could most appropriately meet, the Service asked four questions about each of the activities it reviewed:

- Are there statutory mandates requiring Service involvement?
- Are there involved economically important interjurisdictional or trans-boundary (i.e., international, interstate, tribal/State, migratory) fishery resources that are depleted, threatened with impairment, or otherwise in need of Federal attention?
- Are there involved interjurisdictional fishery resources whose use is the focus of major management or allocation issues? Or, are the factors adversely affecting target fishery resources interjurisdictional in nature?
- Is their share of the responsibility for redressing problems associated with such resources being discharged by the States, companion Federal agencies, Indian tribes, or others?

After reviewing each candidate activity, four were concluded to represent bonafide national responsibilities meriting the highest-priority attention of the Service's Fishery Resources Program. The redefined Program responsibilities are:

- To facilitate restoration of depleted, nationally significant fishery resources.
- To seek and provide for mitigation of fishery resource impairment due to Federal water-related development.
- To assist with management of fishery resources on Federal (primarily Service) and Indian lands.

- To maintain a Federal leadership role in scientifically based management of national fishery resources.

Articulating what the Service believes to be the valid and appropriate responsibilities of its Fishery Resources Program removes considerable doubt as to where the Program stands with regard to certain fishery resources and restores to it a much-needed sense of purpose and stability. A clear, well-defined statement of responsibilities also facilitates Service work that addresses concerns it shares with companion Federal agencies, the States, Indian tribes, interstate commissions, the private sector, academia, and public-interest groups of many kinds. It should also simplify definitive long-range planning for fishery resources.

*A challenging moment between angler and fish. (D. Holt, USFWS)*

Indisputably, very real changes have been made in the character and ranking of specific FWS fishery resource responsibilities, with neither their intent nor their impact being, as some may have believed, "anti-fishing" in motive. Rather, the end result of the Service focus on these four responsibilities is fully expected to be an increase in both the degree and quality of fishing opportunity. Moreover, placing attention on a limited number of important fishery problems with national dimension will allow the Service to use its manpower and funding more efficiently and thereby shorten the time required to attain major Program objectives. What has not changed, and will not change, is Service commitment to the Nation's fishery resources and to closer cooperation with States, tribes, and others in advancing the best interests not only of the fishery resources themselves, but of those who use them as well.

### Implementation

The question of how to best discharge these four responsibilities is also a major objective of this review. Listing them should *not* be taken to mean that they are exclusively the Service's. No. is simply identifying them, though a crucial step, sufficient by itself. Equally essential, if not of paramount importance, is their timely implementation.

Implementation entails deep involvement of the Service and its Fishery Resources Program. Several recent initiatives, exemplified by such diverse activities as the Lower Snake River Compensation Plan, the Connecticut River Basin Atlantic Salmon Compact, and the Emergency Striped Bass Study, provide useful insight into how best to meet implementation requirements. Experience in these and other comparable activities indicates that the Service role in fulfilling the redefined Fishery Resources Program responsibilities will, in effect, consist of two distinct, but closely related parts:

1. Serving as a *catalyst* in ensuring that problems are identified, corrective steps are organized, and agreed-to action is coordinated.
2. Taking its own corrective action where statutorily mandated, where doing so is consistent with plans developed jointly by all responsible parties, and where its budget and manpower permit.

In a number of respects, the general implementation strategy outlined here does not represent significant departure from current Program activity and practice. However, one fundamental change is that the Service would defer operation of certain facilities, mainly new ones serving mitigation purposes, to the States or others. This would include those funded by or through the Service.

Application of this general strategy will vary according to the circumstances surrounding fulfillment of each responsibility, as well as to geographic and other differences. Hence, a detailed "Implementation Planning Process," one that approaches the strategy in terms of discrete, manageable (i.e., relatively small) program elements, will be required as the basis for meeting these Program responsibilities. Such an implementation planning process is being employed.

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U.S. Fish and Wildlife Service
Fishery Resources Program

# Statement of Responsibilities and Role

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**Photo on the front cover:** *Salmon ascending falls in Alaska (G. Hahnel, USFWS)*

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**U.S. Fish and Wildlife Service**
**Fishery Resources Program**

# Statement of Responsibilities and Role

This statement describes and explains the basis for the desired focus of U.S. Fish and Wildlife Service (FWS or Service) fishery resource responsibilities and role. It gives new perspective and substance to the FWS as a major and integral contributor to the stewardship of the Nation's fishery resources. It serves as a new foundation for the Service's Fishery Resources Program and as guidance for the Service's near- and long-term involvement in the protection and management of national fishery resources.

## Background

Federal statutory responsibilities for stewardship of the Nation's varied and valuable fishery resources date from 1871 when Congress established the position of Commissioner of Fish and Fisheries. The Commissioner's mandate was to investigate and recommend means for reversing declines in the domestic supply of foodfish. Subsequently, Federal fishery resource responsibilities and roles have grown and diversified considerably. For instance, Federal involvement quickly broadened when, in 1872, Congress appropriated funds to establish the first fish culture facility, a salmon egg-collecting station on California's McCloud River. Since then, 284 fishery installations (listed in Appendix A) have been established. Subsequently, more than 200 were transferred to other organizations or closed, including about 110 since 1940. The current National Fish Hatchery System is depicted on the map included in Appendix A. As with FWS fishery installations, the kinds of fishery resource activities in which the Federal Government is involved have grown in number and changed in character over time. Indeed, change itself is one constant in the development of Federal fishery resource programs.

The factors that caused this growth of and change in Federal fishery resource responsibilities are numerous, varied, and complex. They reflect national needs, desires, and priorities that have evolved over the past century and a half. These, in turn, have been, and continue to be, the result of enormous, fundamental, and rapid shifts in economic, demographic, social, and cultural conditions in American society as well as in societies throughout the rest of the world. Three factors, however, have been central in shaping Federal fishery involvement:

- Continually growing, broad-based *awareness* of the importance of fishery resources, especially as a focus of recreation and source of low-cost food;

- Enhanced *recognition* of the finiteness of fishery resources and of the consequences of their unregulated use as well as of the degradation, if not destruction, of their habitat; and, accordingly,

- Increasing *need* for more comprehensive and better coordinated management of fishery resources.

As noted previously, the position of Fish Commissioner was established due to concern about the decline in domestic foodfish supplies. The latter two factors were eloquently and insightfully articulated by President Theodore Roosevelt in a special message to the Congress on December 8, 1908:

> "The salmon fisheries of the Columbia River are now but a fraction of what they were twenty-five years ago, and what they would be now if the United States Government had taken complete charge of them by intervening between Oregon and Washington. During these twenty-five years the fishermen of each State have naturally tried to take all they could get, and the two legislatures have never been able to agree on joint action of any kind adequate in degree for the protection of the fisheries. . . ."

The development of State responsibilities for, and roles in, the management of fishery resources has affected, and continues to affect, Federal involvement. For instance, it was not until many years after the legal doctrine of State ownership of fish and wildlife developed during the latter half of the Nineteenth Century* that most States fully assumed responsibility for fishery resources within their borders. The lack of personnel qualified to conduct scientifically based fishery management activities, in addition to inadequate funding, severely limited State fishery resource management initiatives that had no Federal assistance or involvement. Until comparatively recent times, the State fishery resources role was frequently seen simply as supplementing and building on Federal efforts, or, if pursued, as being preemptive of Federal responsibility.

Federal land-management agencies and Indian tribes have responsibilities to protect and maintain fishery resources in waters associated with land or resources they control. These responsibilities are, in many respects, analogous to those of the States. Because of the land ownership dimension, however, the development of fishery management interests and capabilities by these public entities is different from the development thereof by the States. Nonetheless, Service relationships with these agencies in respect to fishery resources have evolved in much the same manner as its relationships with the States.

More often than not, the impetus and directive for Federal involvement in fish-related activities have been the result of legislative initiative, particularly appropriation action. Such initiative has resulted in numerous "establishment and appropriations" acts for fishery installations. Subsequently, broader "program-oriented" legislative authorities, such as the Black Bass Act, the White Act of 1931, and the Mitchell Act, have been enacted. While the Fish and Wildlife Act of 1956 provided broad authority for Federal fishery resource efforts, that authority has generally been interpreted as discretionary in nature. Hence, no comprehensive "organic act" specifying

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* Bean, Michael J. *The Evolution of National Wildlife Law.* (Prepared for the Council of Environmental Quality) U.S. Government Printing Office, Washington, D.C. 1977. pp. 12-20.

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Federal or FWS fishery resource responsibilities or roles exists at present. There are, however, a large number of less encompassing statutes that direct Service involvement in major fishery resource issues, such as those in the Great Lakes. Another change with major consequences resulted from Executive Order No. 4 of 1970. That action placed in the Department of Commerce the FWS's former Bureau of Commercial Fisheries (renamed the National Marine Fisheries Service) and thereby significantly altered not only the Service's fish-related responsibilities and role, but that of representation of the Federal Government on fishery matters generally.

Presented in Appendix B are the statutory authorities cited above as well as others relevant to the Service's Fishery Resources Program.

More recent pressure for change in Federal fishery resource activities is the result of a number of additional factors. Evolving Federal-State relationships led to the *DoI Fish and Wildlife Policy* of March 1983. Because of the substantial and still-growing technical capability of State fishery agencies and Indian tribes, they are assuming many responsibilities and roles formerly performed by the Service, particularly with regard to the provision of fishing opportunities and the management of fisheries in State and tribal waters. With increased professionalism, expertise, and assertiveness of States and tribes regarding fishery resources has come greater cooperation with the Federal Government. It has become increasingly imperative to address common fishery resource problems and opportunities from a cooperative, interjurisdictional perspective rather than in terms of narrow self-interest.

Another factor forcing a reassessment of Federal fishery resource program goals, reponsibilities, and roles is the continuing need to reduce Federal budget deficits. Not only has this been a factor in the past and at present, it will be a pervasive fact-of-life into the foreseeable future. While the Service has, for a number of years, been interested in deemphasizing its activities related to noninterjurisdictional fishery resources in State waters, recent efforts to streamline program management have provided additional impetus to reduce Federal operation of a number of national fish hatcheries (NFH) and fishery assistance offices. Consistent with their substantial interest in fishery resources as well as their improved technical capabilities, the States, Indian tribes (through the Bureau of Indian Affairs [BIA]), and local government have assumed operation of these installations.*

Related to the need to reduce Federal expenditures is greater emphasis on having "users" pay the cost of Federal fishery resource management, especially where the user is not so much the fisherman as it is the beneficiary of development activity that causes fishery resource impairment requiring Federal attention. For such a user-pay policy to be effective, however, it must be possible to identify project beneficiaries and assess them for these program expenditures in a cost-effective manner. For instance, other Federal agencies and Indian tribes, not the FWS, are the immediate beneficiaries of fishery assistance activities in waters on land they control. Recognizing that land-management entities must also be fully responsible for fishery resources under their jurisdiction, both the House and Senate Appropriation Committee reports on the FY 1981 DOI Appropriation Bill deleted a proposed increase in funding for FWS assistance in the inventory and management of fishery resources on non-Service Federal and Indian lands.** The Senate report contained a directive that Federal land-managing agencies should request funds in their budgets specifically for fishery management activities on land they administer.

The concept of "user pay" is particularly appropriate with regard to mitigation. The beneficiaries in this instance, however, are those who use services provided by the water projects involved (electric power consumers, irrigators, shippers by barge, etc.) rather than fishermen. While not new to fishermen who have for decades financed State fishery programs through license fees and Dingell-Johnson (D-J) Act excise taxes on fishing equipment, this emphasis on "user pay" represents a significant new initiative with major implications for the FWS Fishery Resources Program.

As States and Indian tribes steadily gained the fiscal and experiential bases for fulfilling obligations to protect and manage their fishery and other aquatic resources, the concurrent Federal role in the stewardship of these resources increasingly tended to duplicate, or even compete with, their efforts. To avoid such duplication, Federal fish-related activity has been curtailed and/or realigned repeatedly, though sporadically, over the years (see Appendix A). These adjustments resulted in a Federal program that, to the casual observer, may appear to be fragmented rather than unified and without a comprehensive, coordinated focus on recognized and accepted national needs. Consequently, the requirement for Federal involvement in fish and fishery matters has been questioned ever more intensively by successive administrations and Congresses. Recent debate, however, centered not so much on the issue of whether a Federal role in fishery resources protection and management exists, as it did on the problem of redefining and re-enforcing Federal participation in the conservation of such resources. Understandably, the argument takes on added significance in times of economic stress and heightened competition for the Federal dollar.

It should be noted that almost from the beginning of this Federal involvement, there has been a fundamental dichotomy in Federal programs built around commercial versus sport or recreational use of the Nation's fishery resources, both marine and inland. This statement addresses those national (i.e., interjurisdictional), inland, anadromous, and estuarine fishery resources whose stewardship the FWS believes is a major responsibility it shares at the Federal level.

## Identification of FWS Fishery Resource Responsibilities

With strong commitment, the Service will continue to do its part, through cooperation with the States, other Federal agencies, Indian tribes, the private sector, and public-interest organizations, in addressing conservation of the Nation's fishery resources. In light of the circumstances outlined previously, however, the Service deems it necessary and desirable to critically examine and clarify its responsibilities for, and role in, the management thereof. Accordingly, future direction of its Fishery Resources Program—its responsibilities and role—has been methodically and rigorously redefined in resource terms. This statement presents the results of that exercise.

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* By late 1984, 13 States and a local jurisdiction had taken over operation of 15 NFH's under long-term agreement with the FWS. While BIA is funding Service operation of four others, the decision to transfer all of these installations to that agency is still pending.

** House Report 96-1147, July 2, 1980, p. 20 and Senate Report 1095, September 23, 1980, pp. 21-22.

The responsibilities of the FWS, as discharged through its Fishery Resources Program, were identified after extensive review of a wide range of considerations. This entailed looking at a broad spectrum of past, present, and prospective governmental activity related to fishery resources at local, State, national, and international levels. Concurrently, fishery resource-related activity of commercial and non-profit organizations was also reviewed. To illustrate their diversity, a listing of past and current Service activities identified during that review is presented in Table 1.

The next task was to determine which activities represent appropriate responsibilities of the Fish and Wildlife Service. But even with a more extensive listing of possible FWS activity than that in Table 1, events leading up to the present reexamination of Service involvement in the field of fishery resources clearly indicate that the FWS should not and cannot undertake all that one might identify.

Accordingly, the legitimate, appropriate, and relevant fishery resource responsibilities of the Service were delineated in the context of the mission of the U.S. Fish and Wildlife Service, which is to:

> Provide the Federal leadership to conserve, protect and enhance fish and wildlife and their habitat for the continuing benefit of people.

The goal of the Fishery Resources Program in advancing this overall Service mission is to:

> Promote and enhance conservation of the Nation's freshwater, anadromous, and intercoastal fishery resources for maximum long-term public benefit.

These considerations were addressed by asking four questions about each activity considered, an affirmative response to one or more of them indicating possible Service responsibility.

- Are there involved statutory mandates* requiring Service action?
- Are there involved economically important interjurisdictional or transboundary (i.e., international, interstate, tribal/State, migratory) fishery resources that are depleted, threatened with impairment, or otherwise in need of Federal attention?
- Are there involved interjurisdictional fishery resources that are the focus of major management or allocation issues? Or, stated another way, are the factors adversely affecting target fishery resources interjurisdictional in nature?
- Is their share of the responsibility for redressing problems associated with such resources being discharged by the States, companion Federal agencies (especially the National Marine Fisheries Service [NMFS]), Indian tribes, interstate commissions, and others?

From this evaluation of candidate activities, four were determined to represent fully valid national responsibilities that—in the context of shared responsibility, intergovernmental relationships, and user-pay philosophy—are properly addressable by the Service's Fishery Resources Program. They entail many existing Service activities, particularly those related to fishery resource restoration. The four redefined responsibilities of the Fishery Resources Program are:

Table 1. *Examples of Fishery-Related Activities Reviewed*

Fulfill Fishery-Related Indian Trust Obligations (On and Off Reservation)
Institute an Aquaculture Program, including Research
Create/Maintain Fish Populations in Farm Ponds
Restore Depleted Fishery Resources
Promote/Underwrite Urban Fishing Programs
Mitigate Fishery Resource Damage
Address Problems of Interstate Fishery Resources
Address Problems of International Fishery Resources
Protect Fish Habitat (including acquisition of land/water)
Identify/Inventory Critical Fish Habitat
Aid in Restoring/Enhancing Fish Habitat
Promote Enhancement/Maintenance of Fishery Resources by Artificial Propagation
Enhance Public Awareness of Fishery Resource Value
Assist in the Recovery of Endangered and Threatened Fishes/Populations.
Treat Problems due to Exotic Fishes
Deal with Problems of At-Risk Fishes/Aquatic Communities
Address Problems of Transboundary Intercoastal and Estuarine Fishery Resources
Assist in Managing Fishery Resources on Federal Lands, especially Service Lands
Administer a National Fish Broodstock Service
Maintain a Federal Fisheries Leadership Role
Facilitate Registration of Drugs/Chemicals Required for Fishery Resource Management
Subsidize State Recreational Fishing Programs
Subsidize Commercial Fishing/Fishery Development
Create/Maintain Artificial Fisheries

Note: Although the scope of these examples is broad and that some may be subsets of or overlap with others, most have one characteristic in common. They are defined in terms of fishery resources themselves, and/or of broad classes of waters harboring them, rather than in terms of fishery resource management functions. In other words, they indicate *what* has to be done ("ends"), not *how*, as program objectives, they would be accomplished ("means" to an end).

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* Certain statutes, international treaty commitments, and the Secretary's Indian trust obligations were used as decision criteria because they require the Executive Branch to take specified actions. Other legislative authorizations that allow substantial discretion with respect to action taken were also considered. Major statutory mandates and authorities for the Fishery Resources Program are summarized in Appendix B.

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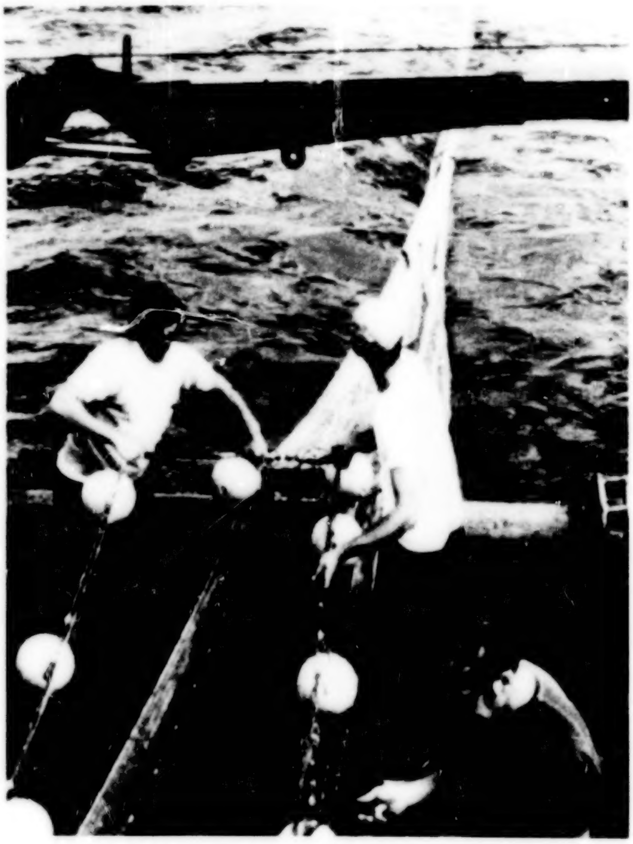
- To facilitate restoration of depleted, nationally significant* fishery resources.
  - —Anadromous Pacific (Alaskan and non-Alaskan) Salmonids
  - —Great Lakes Lake Trout and Other Fishes
  - —Anadromous Atlantic Salmon
  - —Anadromous Striped Bass (Atlantic and Gulf Coast)
  - —Other Anadromous Fishes
  - —Migratory Intercoastal/Estuarine Fishes**
- To seek and provide for mitigation of fishery resources impaired due to Federal water-related development.
- To assist with management of fishery resources on Federal (primarily Service) and Indian lands.
- To maintain a Federal leadership role in scientifically based management of national fishery resources.

This list should *not* be taken to mean that these are exclusively Service responsibilities. On the contrary, as is described in the IMPLEMENTATION section of this statement, these responsibilities must be addressed in close cooperation with other nations, the States, Indian tribes, the private sector, and those Federal agencies that share stewardship responsibility for indicated fishery resources.

## Definition of Program Responsibilities

### Facilitate Restoration of Depleted, Nationally Significant Fishery Resources

This responsibility entails Service participation in rebuilding certain major, economically valuable fishery resources to full, self-sustainable productivity. Target fishery resources are those whose performance and contribution have been reduced to suboptimal levels by a wide variety of factors, associated mainly with habitat degradation and excessive use. Emphasized are anadromous and Great Lakes resources represented by indigenous, or native, species within their original ranges.


*Great Lakes fish stocks assessment surveys aboard USFWS research vessel* KAHO *(R. O'Gorman, USFWS)*

Implicit in the restoration concept are re-creation (and projection) of harvestable surpluses produced by self-replenishing fish stocks as a basis for coordinated resource allocation and management, which are the responsibility of States, tribes, or other regulatory bodies. A successful restoration program will address the cause of stock depletion, specify corrective actions, and accommodate agencies in the resumption of full-scale recreational and/or commercial fisheries, on the condition that necessary catch restrictions are imposed, timely monitoring is performed, and recurrent depletion is thereby precluded.

Restoration also implies the full use by rehabilitated resources of the carrying capacity represented by all of their present and prospective habitat. In restoring the productivity of fishery resources, moreover, one often cannot separate from the need to better control resource use the parallel, if not paramount, need to accelerate repair of resource habitat. It must be recognized, however, that irreversible habitat loss will proscribe the restoration of some fish stocks to their former productivity (cf., several West Coast salmon runs), thus necessitating the maintenance of fisheries these stocks support through augmentation, i.e., by mitigation stocking, in perpetuity.

In addition to being economically important, the fishery resources that are the focus of this responsibility are nationally significant—i.e., interjurisdictional or transboundary—resources whose management and allocation of use are the collective responsibility of two or more States, Indian tribes, and/or other Nations. This category includes resources that frequent international waters, migrate through waters under one management jurisdiction (State, Indian reservation, or treaty-ceded area) to those of another, or are subject to the exercise of Indian-treaty fishing rights. Commonly, major issues exist concerning the allocation among competing groups (e.g., commercial and recreational, tribal and non-tribal

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* The term "nationally significant" as used throughout this document refers to large, economically important fishery resources—like the Great Lakes lake trout, Chesapeake Bay striped bass, New England Atlantic salmon, and West Coast Pacific salmons—comprising a continuum of one or more unit-stocks, i.e., reproductively discrete stocks, represented by a single or an assemblage of closely related species, anadromous in character and/or *inter*jurisdictional (interstate or "national") in distribution. It does not refer to resources represented by species widespread and economically valuable but consisting of unit-stocks that are entirely *intra*jurisdictional (intrastate or "resident") in distribution. (Note: The FWS has no authority to manage fisheries for these or any other fishery resources. One must therefore understand as a matter of principle that Service participation in protecting these resources, that is, in discharging the obligation it shares for their stewardship as described elsewhere in this statement, can only proceed or be sustained when the consumption of such resources is properly regulated by the parties possessing this authority.)

** Nonanadromous species, limited in number, whose unit-stocks may be interjurisdictional in distribution but are confined to near- and in-shore coastal (estuarine) waters.

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*Selecting chinook salmon for spawning at Coleman National Fish Hatchery, California (POF, USFWS)*

fishermen) of the fishery resources addressed under this responsibility, truly a shared Federal responsibility dictating continued Service involvement.

A key consideration in the discharge of this responsibility is cooperative establishment for each resource of a restoration target or goal. That is, what basis is there for determining when a species, stock, population, or run is restored and if additional management action would constitute enhancement? This question is central to determining the ultimate level of FWS contribution, as opposed to the collective contribution by cooperating States and tribes, to major restoration efforts. In limiting the scope of its restoration responsibility, the Service does not view as a Federal obligation the "enhancement" by artificial means of fishery resources in whose restoration it participates. Indeed, costs related to the provision of hatchery-produced fish for the augmentation, creation, and non-mitigation maintenance of fishery resources are properly borne by beneficiaries through the management entities (States and tribes) promoting such action.

The Service's restoration responsibility addresses depleted, interjurisdictional resources grouped as follows: Pacific salmons and steelhead trout; Great Lakes lake trout and contemporary species; anadromous Atlantic salmon; anadromous non-salmonid Atlantic and Gulf of Mexico fishes (e.g., striped bass, shads, herrings, and sturgeons); and transboundary intercoastal and estuarine fishes (e.g., red drum, weakfish, and other sciaenids). Summarized in Table 2 are the geographic areas and species that are or will be the focus of the Fishery Resources Program restoration activity. The table also includes the key statutory mandates associated with each of these geographic/species groups. The nature of the fishery resources involved in each grouping, as well as the justification for Federal involvement are described in Appendix C.

Table 2. *Scope of and Statutory Mandates for Restoration Responsibility*

| **Geographic Scope/Species Focus** | **Statutory Mandates*** |
|---|---|
| A. Pacific Anadromous Salmons and Steelhead Trout<br>1. Alaskan Stocks<br>2. Non-Alaskan Stocks | Anadromous Fish Conservation Act<br>Fish and Wildlife Act of 1956<br>Pacific Salmon Treaty Act of 1985<br>Alaska National Interest Lands Conservation Act<br>Mitchell Act<br>Water Resources Development Act of 1976<br>Salmon and Steelhead Conservation Act<br>Pacific Northwest Electric Power Planning and Conservation Act<br>Indian Treaties and Related Court Decisions |
| B. Great Lakes—All Species | Great Lakes Fishery Act of 1956<br>Fish and Wildlife Act of 1956<br>Indian Treaties and Related Court Decisions |
| C. Atlantic Anadromous Species<br>1. Atlantic Salmon<br>2. Striped Bass<br>3. Others: Herrings, Shads, and Sturgeons | Anadromous Fish Conservation Act<br>Fish and Wildlife Act of 1956<br>Atlantic Salmon Convention Act of 1982<br>Connecticut River Basin Atlantic Salmon Compact Act<br>Emergency Striped Bass Study Act<br>Atlantic Striped Bass Conservation Act<br>(None specific) |
| D. Gulf Anadromous Striped Bass, Shads, and Sturgeons | Anadromous Fish Conservation Act<br>Fish and Wildlife Act of 1956 |
| E. Migratory Intercoastal/Estuarine: Primarily Sciaenids | Estuary Protection Act<br>Fish and Wildlife Act of 1956 |

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* See Appendix B for the citation and a summary of the relevant provisions of each statute.

*Releasing radio-tagged striped bass into the Apalachicola River, Florida (E. Crateau, USFWS)*

## Seek and Provide for Mitigation of Fishery Resource Impairment Due to Federal Water-Related Developments

Federal water development projects, Federally licensed or permitted alteration of navigable (or "Federal") waters, and other Federal activity that modifies fish habitat (e.g., highway construction) often adversely and pervasively impact the productivity of fishery resources that existed prior to such development. This reduced productivity results from habitat loss as well as from the creation of insurmountable barriers to fish passage. Frequently created are lower-quality stocks of lacustrine species at the expense of stocks of higher quality riverine forms, although sometimes the reverse is true.

Longstanding and generally accepted Federal policy applied by the Service is to prevent adverse impact or, if such impact is unavoidable, to assure that the fishery resources affected are replaced in-kind or by acceptable substitutes. Such "mitigation" must be continued for as long as habitat losses are sustained, i.e., for the life of the project and as long afterwards as the effects of the project persist. Thus, many adverse impacts and efforts to mitigate them may continue in perpetuity. In the past, Fishery Resources Program fulfillment of mitigation needs has consisted primarily of attempting to compensate for the losses incurred with hatchery-produced fish.

Mitigation, as defined in Council of Environmental Quality (CEQ) regulations (40 CFR 1508.20) implementing the National Environmental Policy Act (NEPA), is addressed in related assessments of environmental impact by making the following considerations:

"(a) Avoiding the impact altogther by not taking a certain action or parts of an action.

"(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

"(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

"(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the act.

"(e) Compensating for the impact by replacing or providing substitute resources or environments."

These alternatives to avoiding or compensating for impacts were adopted as the Service's approach to mitigation and published in its Mitigation Policy on January 23, 1981 (46 FR 7657). That policy statement also established "Mitigation Planning Goals" for four categories of fish and wildlife resources, as guidance in developing recommendations on the mitigation of negative project impacts. The four categories are defined in terms of the value to fish and wildlife of the habitat impacted, i.e., primarily in terms of the uniqueness of that habitat.

Mitigation viewed as a distinct form of restoration, is differentiated because of its focus on the effects of specific, Federally authorized, water-related development. Moreover, all fishery resources so affected, not just those that are interjurisdictional and economically significant, must be considered.

As with restoration, the question of when the mitigation requirement is fulfilled (a valid Federal responsibility) and further action becomes enhancement, as defined earlier (not a Federal responsibility), can be an issue in some instances. That issue is further complicated in the case of mitigation because along with the undesirable effects of Federal water development projects on endemic fishery resources, there are often created new (substitute) resources that result in fisheries or fishing opportunities with values different from those ascribed to the resources displaced.

Statutory mandates for FWS efforts to mitigate the impacts of Federal water development projects, as well as activities authorized under FERC licenses or by Section 9, 10, 13, and 404 permits, are very broad and substantial (see Appendix B). The Fish and Wildlife Coordination Act requires that fish and wildlife be given *equal* consideration with other project purposes in making decisions about Federal water projects and license or permit applications. Other mandates and authorities for FWS involvement in mitigation activities, associated with Federal water projects as well as with federally licensed or permitted alteration of navigable waters, include the Fish and Wildlife Act of 1956, the Watershed Protection and Flood Prevention Act, the Rivers and Harbors Act of 1899, the Federal Power Act, the Clean Water Act, the Mitchell Act, the Water Resources Development Act of 1976, and other statutes. In addition to these statutory requirements and authorities, NEPA regulations also require that mitigation measures be considered in environmental impact statements for significant Federal activities and development initiatives. Hence, there is a substantial mandate for FWS involvement in identifying mitigation requirements for all Federal water-development initiatives as well as Federally licensed or permitted activities, and in ensuring that mitigation measures are included in projects when they are planned, constructed, and become operational.

### Assistance to the Service's Habitat Resources Program

While the FWS mitigation responsibility is clear and generally accepted, when and how the Fishery Resources (FR) Program becomes involved must also be understood in fully defining its responsibilities for mitigation. Such involvement is required because of the pervasive impact of water development activities on fishery resources, and because the Fishery Resources Program is required to operate a number of fish hatcheries and other facilities in support of Federal mitigation activities. Because of the complexity and far-reaching consequences of most mitigation initiatives, not to mention their impact on fishery resources themselves as well as on Program operational capability, early involvement by the Fishery Resources Program in the mitigation process is essential. For instance, regional Program offices review Coordination Act reports before they are submitted to the Washington Office (thence the construction agency) for recommended mitigation measures that are feasible and thus justify necessary budget and operational planning.

Pre-project identification of mitigation requirements is acknowledged as the primary obligation of the Service's Habitat Resources (HR) Program. The HR Program has responsibility for reviewing Federal water development plans as well as license and permit applications to determine the likely impacts of proposed projects on fish, wildlife, and their habitat. This role involves gathering and analyzing basic data on the status and use of fish, wildlife, and habitat resources. FR Program personnel sometimes undertake this task for, or in conjunction with, HR Program field staffs. Additionally, the HR Program is responsible for analyzing that information as a basis for developing the fish and wildlife components of project plans, including mitigation requirements. Consistent with the FWS (i.e., CEQ) definition of mitigation, the HR Program also works with project sponsors, preferably before project plans are completed, to avoid adverse impacts altogether or to minimize them.

As noted, the Fishery Resources Program has substantial involvement and interface with the HR Program in discharging the Service's mitigation responsibility under the Coordination Act, NEPA, and other statutes. But although many States and the National Marine Fisheries Service (NMFS) have parallel responsibility and capability, contact with them by the FR Program is limited and usually made through the HR Program. Likewise, FR Program contact with the development agencies and with license or permit applicants during early stages of the mitigation process is through the HR Program.

Funding for this FR Program involvement will be through the HR Program with monies provided by the Federal agency undertaking the water resource development project; in certain instances, impact assessment funding may be appropriated directly to the Service. To the extent such work is related to its responsibilities, however, the FR Program itself may indirectly apply additional resources to mitigation-related activities.

HR Program mitigation responsibility normally continues beyond determination of project feasibility through authorization and does not preclude further HR Program obligation to perform future project-related studies.

### Mitigation Responsibility of the Fishery Resources Program

A successful FWS mitigation effort requires continuous Service involvement from the inception of each project. Absolutely essential is smooth transition of responsibility within the FWS from its impact-assessing (HR Program) to its impact-compensating (FR Program) functions. While the HR Program is involved from the outset of each project, it is during the legislative authorization process when FR Program responsibility related to a Federal water project usually emerges. Because a major program function is the operation of mitigation (i.e., fish propagation) facilities, the FR Program must become aware of the rationale and justification for whatever mitigation requirements may be established by the Congress as early as possible, ideally during the legislative authorization stage, so it can plan and monitor the implementation of each requirement. Depending on the nature of the project authorized, the FR Program then completes the implementation plans in conjunction with HR Program staff as appropriate, including assurance that necessary funding for operating mitigation facilities and administering programs is made available by or through the development agency. However, both Programs may share responsibility for a given project from the point at which mitigation needs are identified, through the stage when appropriations for construction of the project are sought.

Further, FWS involvement, underwritten by the developing agency, must continue for as long as mitigation requirements have to be satisfied, entailing a perpetual need to stock hatchery-produced fish where anadromous runs have been blocked by high dams (e.g., Grand Coulee, WA; Dworshak, ID). Along with such a requirement is the corresponding need for continuous evaluation of the performance of both the mitigation product itself and of the fisheries that it benefits. Hence, after a project incorporating fishery mitigation facilities is completed, the FR Program monitors the mitigation activity to ensure that it meets statutory requirements. This effort is coordinated with and complements the "Follow-Up Studies" currently performed by the HR Program. FWS fishery research capabilities are also employed as necessary in overcoming impediments to fulfillment of mitigation requirements.

Funding of Fishery Resources Program mitigation responsibilities is also an issue. A fundamental premise is that water project beneficiaries (or, in instances where beneficiaries cannot be readily identified or assessed for costs, the development agency) should underwrite all mitigation, including facility operation and maintenance over the life of the project. This approach is consistent with general FWS policy which states that the construction agencies and, by inference, their clientele, are responsible for compensating for resource losses caused by their projects. Where required by explicit statutory language or where the legislative history of project authorization demonstrates Congress' clear intent that mitigation be undertaken, funding is provided with little question. In the past, such funding has usually been through direct appropriations to the FWS. However, Service operation of a few installations, e.g., Dworshak NFH in Idaho, proceeds with appropriations to the Federal development agency involved, in this case the Corps of Engineers. In the future, the FR Program will cooperate with the HR Program to ensure that construction agencies assume the cost of statutorily mandated mitigation

*Rainbow Fishway for Atlantic salmon and American shad migrating up the lower Farmington River, Connecticut (L. Bandolin, USFWS)*

The more difficult funding question arises in situations where the FWS operates facilities to produce fish, or performs other work to compensate for the impacts of Federal water development projects, in the absence of explicit statutes. Service involvement in such activity, referred to as "defacto mitigation" (or, as it has been termed elsewhere, "mitigation-in-fact"), has developed over a long period of time, usually for reasons related to the specific circumstances surrounding individual water development projects. The major reason, however, is that the projects were authorized and constructed prior to 1965 when Federal law was changed to require beneficiaries to assume all mitigation costs in all future project planning. Once a project was constructed and its impact on fishery resources became obvious, however, the Service was often directed, usually through the appropriations process, to provide compensation. Subsequently, this carry-over involvement has nonetheless come to be seen as the discharge by the Service of a Federal responsibility for mitigating fish losses caused by Federal projects.

*Steelhead entering the spawning channel at Tehama Colusa Fish Facility, Sacramento River, California (D. Regan, USFWS)*

National fish hatcheries and other installations currently operated or funded by the FWS to meet mitigation needs are listed in Appendix D. Whether they serve statutorily required or defacto purposes is noted. In the specific case of existing defacto mitigation facilities, it is Department and Service intent to pursue cost-sharing arrangements for their future operation and maintenance with the agencies representing project beneficiaries. Such effort will entail analysis of mitigation needs and determination of responsibility for meeting them, project by project (e.g., Lake Taneycomo and Oahe Reservoir), with full State and tribal participation, as appropriate. These mitigation needs and the agreed-upon responsibilities of all parties will have to be thoroughly documented. Individual project agreements would become addenda to cooperative fishery agreements with each State and tribe. In the meantime, the FR Program will continue to provide necessary mitigation for the indicated projects using funds appropriated directly to the Service. In so addressing the problem of funding from its own (versus the project beneficiary's) budget the defacto mitigation facilities it now operates and maintains, the Service will not seek appropriations to likewise fund new facilities in the future.

### Assist with Management of Fishery Resources On Federal (Primarily Service) and Indian Lands

The Federal Government owns a third of the Nation's land, including more than half of five western States. Even in States where Federal holdings are proportionately smaller, the waters thereon often contain a substantial amount of important fish habitat and fishery resources. The full spectrum of the Nation's fishery resources is represented in these land and water holdings. Because of their accessibility and presence, such resources often receive heavy, if not excessive, use.

By far the largest amount of Federal land is administered by the Bureau of Land Management (341 million acres) and the U.S. Forest Service (191 million acres) for broad, multiple-use purposes. Another large segment is set aside for use as national wildlife refuges (90 million acres) and parks (74 million acres), although other uses occur as long as they are compatible with the primary purposes of these systems. The Federal Government also acts as trustee for Indian tribes, including fish and wildlife resources on reservations (53 million acres) as well as those in off-reservation, treaty-ceded waters. The military, Veterans Administration, NASA, Department of Energy, and several other Federal agencies also administer lesser, but still substantial, amounts of wild land containing waters harboring valuable fishery resources.

The purposes for which Federal lands are managed vary widely. However, the responsible agencies generally share a long-term interest in developing their fish and wildlife resources for fishing and hunting, as well as in protecting the habitat that sustains the productivity of these resources. Motivations for developing and maintaining fishery resources differ considerably among Federal land management agencies, although the diverse interests of several (DOD, DOE, NASA, USFS, and BLM) were institutionalized when the Sikes Act was enacted in 1960 and subsequently amended. Also, because

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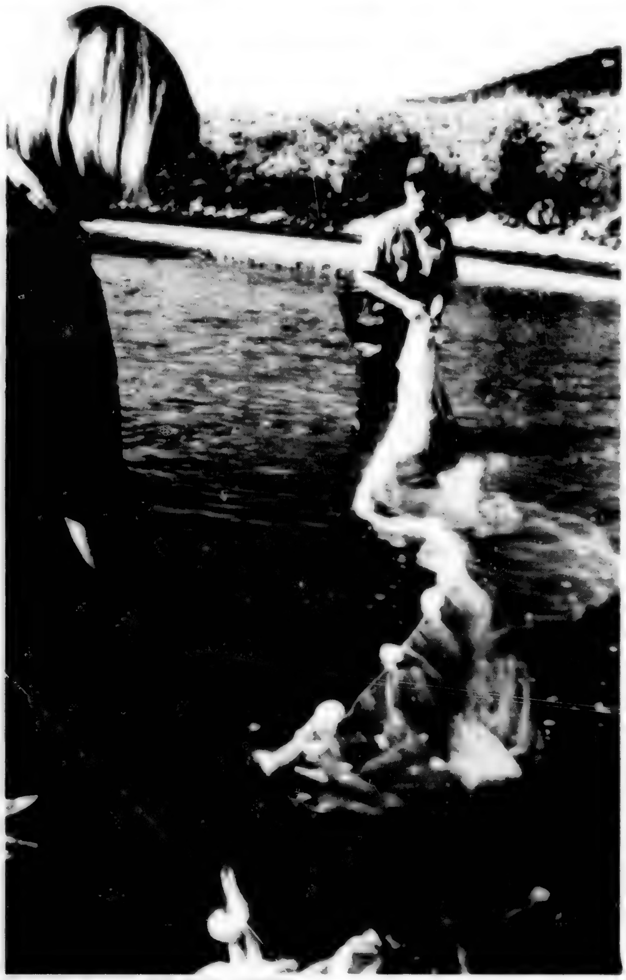
of its inherent orientation and obligation, the National Park Service (NPS) has long managed the fishery resources under its control.

Stocks of fish are important economic resources to many Indian tribes. Consequently, the tribes have a substantial interest in protecting those fishery resources to which they have right of access, and over which they have full or shared control. This authority is exercised by the tribes on their own under provisions of the Indian Self-Determination Act and/or in conjunction with the Bureau of Indian Affairs (BIA), which oversees the Indian trust obligations of the Secretary of the Interior. Efforts related to Indian lands and fishery resources are inherently complex because of the need to deal with so many tribes as well as with adjoining States, and are often confounded by long-term, fundamental disagreement among many tribes and States regarding the use of these resources and who controls them.

*Collecting biological information from channel catfish before stocking them into a lake on the Colorado River Indian Reservation. (M. Donahoo, USFWS)*

Service interest in fishery resources produced on Federal and tribal land, which is limited in many ways, mainly entails advancing the concept of cooperative stewardship as vital to their perpetuation. Primary responsibility for managing the use of fish and wildlife on most Federal land rests with the States although there are a few exceptions. Fishery resources on Federal and tribal lands not addressed in the context of other FR Program responsibilities are included within the scope of this one. Assistance is provided (through participating tribes and States) for maintenance and enhancement of fishery resources in waters on Federal land *when the Service is requested to do so and funded by* the respective land management agency. In effect, the FWS makes available to other Federal agencies its extensive fishery resource management capabilities, including expertise in fishery research and fish propagation. The NPS, Indian tribes, and the military have been the most significant users of these Service capabilities in the past.

To the extent available, Program expertise as solicited for addressing fishery resource problems in waters on Federal and tribal lands is applied jointly and in cooperation with the States and tribes in whose jurisdiction these lands are located. Moreover, special efforts are made to ensure that State and tribal personnel are given the opportunity to participate with Service specialists when planning for fishery resource management in Federal waters (e.g., see Appendix E, *Agreement on Policy: Trusteeship of Tribal Fishery Resources* between the FWS and BIA). Often, the Fishery Resources Program, by way of its technical assistance and extension functions, serves other Federal land management agencies through State fishery agencies and, in a few instances, tribal fishery management organizations. Funding for such State and tribal involvement comes from:

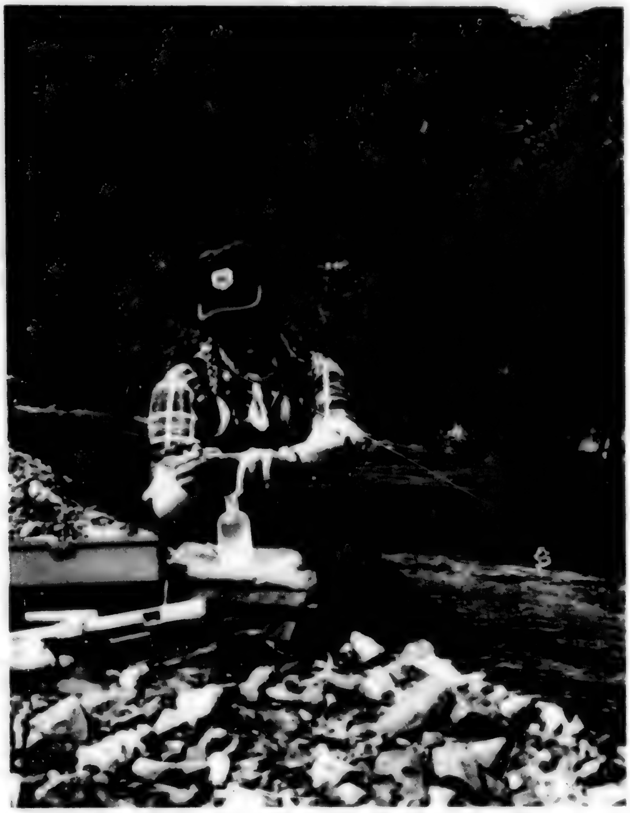


*Preparing to seine fish (POF, USFWS)*

- the Federal land managing agency, under authority of the Sikes Act and any other authorities specific to a given agency or management unit;
- State programs that involve special license fees, such as the extra stamp required for fishing in national forests in Virginia;
- Dingell-Johnson Act matching grants as administered by the Service's Federal Assistance (FA) Program; and

- the BIA, under authority of the Indian Self-Determination Act.

Consistent with the concept that Federal land managing agencies are responsible for stewardship of natural resources on land they control, the Service has extensive fishery resource assessment and planning efforts underway on national wildlife refuges (NWR), the principal Federal lands it administers.



*Measuring dissolved oxygen in water samples collected on Alaska Peninsula National Wildlife Refuge, Alaska (S. Lanigan, USFWS)*

While systematic efforts to increase the use of fishery resources on all national wildlife refuges are underway, that use must neither impair the resources affected nor conflict with the primary mission of the unit as required by the Recreational Use of Conservation Areas Act of 1962 (more commonly referred to as the Refuge Recreation Act) or the National Wildlife Refuge System Administration Act.

Funding fishery management activities on Federal and Indian lands under this responsibility remains with the land management agency or tribe. Such arrangement reflects a broad and growing consensus that it is up to them to quantify the emphasis to be placed on (i.e., the amount of funding to be allocated to) management of fishery resources in the waters they control, a determination best made in the context of each agency's or tribe's primary mission. In addition, each retains the prerogative of deciding who, with the funding it provides, should perform the fishery resource-related work on lands under its jurisdiction (i.e., the agency or tribe itself, the FWS, the States, or a combination thereof). As noted in the BACKGROUND section of this Statement, prevailing guidance from both Senate and House Appropriations Committees provides that each agency has full responsibility for projects and plans on lands and for resources it manages, and that each must request its own funds in discharging it. Applying this philosophy, the Congress denied the Service's FY 1981 budget request for more funds with which to expand its fishery assistance activity on Indian and non-Service Federal lands.

Service appropriations for the development and implementation of fishery management plans on NWR's are made through the Fishery Resources Program. All other Service involvement with fishery management activities on Federal lands will henceforth proceed on a cost-reimbursable basis. A major effort has been initiated to revise or develop formal agency-level Memoranda of Agreement, as well as field level agreements, to implement necessary arrangements. Work performed in meeting the Program's four other responsibilities (including provision of fishery assistance work on NWRs) represents a strong core capability from which the Service can draw whatever expertise other Federal agencies and Indian tribes may request.

## Maintain a Federal Leadership Role In Scientifically Based Management of National Fishery Resources

Management of the Nation's fishery resources requires that many environmental, biological, and political obstacles be overcome. For instance, the loss of fish productivity due to habitat degradation must be recognized, then restored or offset by the parties causing it; the recovery of self-sustaining unit-stocks of endangered and threatened fishes may have to be accommodated, different strains of established fishes will probably need to be developed as environmental conditions or fishery management requirements change; and related programs of different agencies have to be coordinated to avoid wasting funds and manpower. To meet these challenges, fishery resource administrators, including the FWS, must have ready access to the full array of scientifically derived knowledge and techniques necessary, as well as to the means of applying them.

With some capabilities representing many years of development and enjoying world reknown, those administered

*Laboratory demonstration at the Fisheries Academy, National Fisheries Center—Leetown, West Virginia (M. Stuckey, USFWS)* by the Service may be categorized generically as fishery research, technology development, and technical assistance; fish propagation; and fishery law enforcement. Not only is each capability required for fulfillment of established FWS fishery resource responsibilities as previously described, but also so the Service can diagnose current and counter impending fishery resource problems, as well as respond quickly to requests for information not necessarily related to major Program responsibilities.

The Service has played such a role in the past; one may note the specialized fish disease research it did on the Yellowstone cutthroat trout. Its capability to perform basic and applied (or problem-solving) biological research continues to grow. This capability was recognized by the Congress when it legislatively appointed Service representatives as members of the eight regional Fishery Management Councils established under the Magnuson Fishery Conservation and Management Act of 1976. The Service's need to maintain a wide range of fishery expertise was also a major conclusion of the Calhoun Report.* The key to successful implementation of this responsibility, however, is sustained awareness of the kind and degree of fishery resource-related capability the FWS must maintain for it to be effective.

To foster successful management of the Nation's fishery resources, the Service as an agency of the Federal Government will continue its leadership role of encouraging and influencing biologically sound decisions by the Department, companion Federal agencies, the States, Indian tribes, and others interested in the protection and contribution of these resources.

This Program responsibility addresses the question of what unique scientific and institutional capabilities the Service should make available to the States, Indian tribes, other Federal agencies, the private sector, and the public generally to assure that benefits derived from national fishery resources are sustained. It is aimed not only at securing a permanent basis from which to discharge the major Program responsibilities previously described, but also at providing a source of special, state-of-the-art assistance to States, tribes, and others who otherwise could not obtain it. Its legislative authority includes the Fish and Wildife Act of 1956, the Fish and Wildlife Coordination Act, the Endangered Species Act of 1973, the Fish-Rice Rotation Farming Program Act of March 15, 1958, the National Aquaculture Act of 1980, and the Federal Aid in Sport Fish Restoration Act of August 9, 1950, all as amended.

Involved is maintaining and making available the full range of expertise required to protect and manage fishery resources, including that in fish culture and fishery resource management, which the Service has developed over many decades. Moreover, the Service must maintain the well-established scientific institution it now represents, with core capability in all the disciplines required, if it is to continue with effectiveness in contributions to protecting the productivity and maximizing the potential of these resources. This institution is, we believe, the very foundation of the U.S. Fish and Wildlife Service as a major Federal scientific organization. Being a leader in the development, maintenance, and application of such expertise ensures not only the present best use of our fishery resources, but also of their protection for the benefit of future generations.

Following are examples of the kind of activity to which the Service will continue to apply its skills, knowledge, tools, or management ability in fulfilling this responsibility:

- Developing new concepts and improved technology in fishery resource management and fish propagation (e.g., in habitat restoration, stock assessment, allocation options, chemical/drug registration, etc.), for greater effectiveness in the management of fisheries and culture of fishes.

- Maintaining broodstocks representing all major species, for use in special management situations or unique habitats, giving the development of different strains or the modification of genetic character major consideration.

- Providing leadership in the technology of fish disease diagnosis and fish health practice, for application in cooperation with other entities to control the spread of diseases and develop the means by which to do so. This activity includes certification of fish disease inspectors in the U.S. as well as in foreign countries.

- Developing fishery resource policies in conjunction with the NMFS, States, Indian tribes, interstate commissions, and others. These typically address specific problems (e.g., the introduction and control of exotic species, uniform practice in fish health, and standardization of fishery statistics).

- Managing broad-scale fishery databases, for accommodating not only the usual information on resource status and expected performance, but also, for instance, on fishery research planned and in progress. Such information is made available to State and other fishery administrators, planners, and researchers using, among others, the computerized system developed and maintained by the Service's Federal Assistance (FA) Program to better coordinate Federal and State research and assessment efforts, and thereby enhance managerial performance.

- Assisting Service offices having technical needs not addressed in the context of other Program responsibilities, especially:

  —the Endangered Species Program, to correct problems associated with fish populations representing listed and candidate species.

  —the Federal Aid (D-J) activity administered by the FA Program to strengthen the work of State and Territorial fish and wildlife agencies in meeting effectively the consumptive and non-consumptive demands of the public for fish and wildlife resources;

  —the Fishery Cooperative Research Unit Program, to enhance research, resource management, technical expertise, and training capabilities of the Service, States, the academic community, and other conservation agencies through learning and teaching activity

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* Calhoun, Alex, et al. *Report of the National Task Force for Public Fish Hatchery Policy*. U.S. Government Printing Office, Washington, DC. November 1974. xxiv + 295 pages.

related to fish and wildlife resource management; and
—the Habitat Resources Program's Division of Resource Contaminant Assessment, to systematically assess the presence of contaminants in fishery resources.

- Making technical assistance available to other natural resource agencies and organizations for solutions to unique fishery resource problems.
- Transfering technical information through advanced training in fishery management and fish culture as provided by the Service's Fisheries Academy, scientific publications, extension activities, attendance at technical/scientific meetings, other professional interaction, etc.
- Enhancing public awareness that self-replenishing fishery resources are an extremely valuable common property, that they are finite in dimension and often fragile in character, and that with careful management of their use as well as resolute protection of their habitat, they can flourish and contribute to society for many years to come.

There can be no doubt that FWS contributions in these areas have significantly advanced—and will continue to do so—the protection and effective management of the Nation's fishery resources.

### Conclusion

Articulating what the Service believes to be the valid and appropriate responsibilities of its Fishery Resources Program removes considerable doubt as to where the Program stands with regard to certain fishery resources and restores to it a much-needed sense of purpose and stability. The orientation of these responsibilities, i.e., their emphasis on wild, self-sustaining resources over against those maintained artificially, should also be very helpful in counteracting the widely held perception that the Program consists largely— if not solely—of fish hatcheries. A clear statement of responsibilities also facilitates Service work with other Federal agencies, the States, Indian tribes, and interstate commissions, as well as with the private sector, academia, and public-interest groups of many kinds. Further, more definitive long-range planning for fishery resources should be an immediately apparent result.

While not central to the Program's new direction as are the fishery resources themselves, both recreational and commercial fishing are nonetheless the obvious beneficiaries of these redefined responsibilities. Neither the intent nor the impact of the changes they represent are "anti-fishing." On the contrary, one can fully expect the net result of new Service emphasis to be an increase in both the quantity and quality of fishing opportunities. Moreover, focusing attention on a limited number of important fishery problems with national dimension will allow the Service to use its people and funding more efficiently and thereby shorten the time required to achieve fishery resource objectives.

Indisputably, changes have been made in the character and ranking of specific FWS fishery resource responsibilities. What has not changed, and will not change, however, is Service commitment to the Nation's fishery resources, as fulfilled through its parallel commitment to work more closely with the States, Indian tribes, and others in furthering the best interests not only of the resources themselves, but of those who use them as well.

## IMPLEMENTATION

How best to discharge these four responsibilities is also a major objective of this review. Listing and describing them should *not* be taken to mean that they are exclusively the Service's. Nor is simply identifying them, though a crucial step, sufficient by itself. Equally essential, if not of paramount importance, is their timely implementation.

Implementation requires that several basic questions related to the role of the Service and its Fishery Resources Program be addressed. For instance, how will traditional functions of the Service—biological research, resource assessment, technology development, technical assistance, fish propagation, and law enforcement—contribute to the fulfillment of these responsibilities? In the process, moreover, what should be the relationship of the Program to the States, the NMFS, Federal land management agencies, Indian tribes, the private sector, and other interested organizations?

Several recent initiatives provide useful insight into how the Service might respond most effectively to such implementation questions. The Lower Snake River Compensation Plan, the Connecticut River Basin Atlantic Salmon Compact, and the Emergency Striped Bass Study are good examples of fruitful Federal-State cooperation in addressing critical fishery resource problems. They manifest the factors fundamentally instrumental in successful fishery resource rehabilitation and protection efforts. Key considerations for Fishery

*Weighing steelhead produced at Lyons Ferry State Fish Hatchery, Washington, in support of the Lower Snake River Compensation Plan (L. Emery, USFWS)*

Resources Program implementation strategy in the foreseeable future are as follows:

- Problems, opportunities, or other circumstances that have the potential for substantially affecting the Nation's fishery resources, particularly those associated with the Fishery Resources Program responsibilities described previously, must be identified in timely fashion and in cooperation with all interested entities.
- Many diverse capabilities—technical as well as managerial—are required and must be employed in an integrated, well-orchestrated manner to restore and protect national fishery resources.
- Other organizations, including State fishery agencies, Indian tribes, and companion Federal agencies, also possess substantial fishery resource management capabilities.
- The FWS shares responsibility for the stewardship of fishery resources with States and other Federal agencies who have regulatory authority over the use of those resources, which it does not.
- Cooperating agencies must be induced to undertake corrective actions for which they are primarily accountable.
- Implementation must be consistent with the recently adopted *DOI National Fish and Wildlife Policy*, which addresses Federal-State relationships, and with the *Agreement on Policy—Trusteeship of Tribal Fishery Resources*, which clarifies the relationship of BIA and FWS on behalf of tribal interests in fishery resources.
- The Service has a particularly close association with the States and a unique opportunity to understand, cooperate, and assist with their freshwater and marine fishery initiatives through the D-J Program.
- Finally, the FWS must be more aggressive in influencing actions that contribute to the resolution of critical unaddressed problems in its areas of responsibility

As it makes these fundamental considerations, the FWS will assume the role of catalyst in assuring that resource problems, needs, and opportunities are quickly identified and addressed. This entails organization and coordination of problem resolution by all interested and capable parties. This catalyst role thus becomes the paramount purpose the Service can serve in meeting its own obligations.

For new initiatives, the FWS may assist its cooperators in taking actions required to attain agreed-to objectives. Funding for these initiatives will come from a variety of sources (including Federal Assistance grants), as dictated by statutory requirements and/or budget priorities. Finally, to fulfill its own Program responsibilities, the FWS will undertake whatever actions may be necessary and feasible within the constraints of available fiscal and personnel resources.

Accordingly, the role of the Service in implementing Fishery Resources Program responsibilities will consist of two distinct but closely related parts:

1. Serving as a *catalyst* in ensuring that problems are identified, corrective steps are organized, and agreed-to action is coordinated; and
2. Taking its own corrective action where statutorily mandated, where doing so is consistent with plans developed jointly by all interested parties, and where its budget and manpower permit.

Perhaps the most difficult aspect of discharging responsibilities the Service shares with others will be, as it occasionally has been in the past, to convince reluctant cooperators that their joint interest and concern require them also to take initiative in solving common problems. There may even be disincentive for them to so act if they perceive it likely that the Service will step in and otherwise meet the need. While a valid concern, such difficulty, once recognized, will be addressed straightforwardly by Service managers and Program personnel. With explicit assumptions about the constraints and problems that must be overcome, plus commitments from other involved organizations as to their contributions, they will support those strategies and schedules that establish clear limits on FWS involvement in jointly achieving agreed-to resource objectives. Such an approach is already a part of the Service's way of doing business in many areas, and is the foundation for the implementation by the FWS of the responsibilities outlined in this Statement. It also provides an effective mechanism for ensuring that when the Service commits its resources, others—States, tribes, and companion Federal agencies—likewise contribute significantly and concurrently to whatever cooperative efforts may be dictated.

In virtually all respects, the general implementation strategy outlined here does not represent significant departure from current Program practice. One fundamental change, however, is that operation of new fish propagation facilities serving mitigation purposes would be deferred to States or others, including those whose funding is administered by the Service. This approach is consistent with the long-standing practice, if not formal policy, of the Service and Federal water resource development agencies to offer States the first opportunity to undertake programs and operate associated facilities constructed for purposes of mitigating damage caused by (and/or enhancing) Federal water development projects.

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Further, this practice is fully consistent with the *DOI Fish and Wildlife Policy*.

Nor will this strategy significantly impact present functional elements already in line with Program responsibilities as redefined. Due to long-term shifts in Program activities and to recent changes associated with improved managerial efficiency, most Program functions are now focused on the realigned responsibilities. And, although the Program is committed to deferring operation of new mitigation facilities to the States and others, situations will inevitably arise where Service operation of facilities and its conduct of related fishery work may be necessary.

Given the great diversity of the fishery resource responsibilities identified, their broad geographic scope, and their differing requirements as to funding and personnel, applicability of the general implementation strategy outlined here will understandably vary specifically according to the circumstances surrounding fulfillment of each one. Hence, a detailed "Implementation Planning Process" adapting this concept and approach to discrete, manageable (i.e., relatively small) program elements is required as the basis for pursuing the Program responsibilities described previously in this Statement. Such an implementation planning process is being employed.

# HISTORICAL BACKGROUND

## Part I-Evolution of the National Fish Hatchery System

| Year Estab.[1] | Station | Status/Disposition | | | Final Year[2] |
|---|---|---|---|---|---|
| | | Oper. | Closed | Other | |
| 1871 | Bucksport, ME | — | — | Moved to Orland, ME | 1875 |
| 1872 | McCloud River, CA | — | X | — | 1882 |
| 1873 | Lambertville, NJ | — | X | — | 1885 |
| | Weldon, NC | — | — | Transfer: State of North Carolina (8/18/54) | 1948 |
| 1874 | South Hadley Falls, MA | — | — | Transfer: State of Massachusetts | 1877 |
| | Potomac Station, DC | — | — | Moved to Washington Navy Yard (1882) | 1881 |
| 1876 | Harve de Grace, MD | — | — | Moved to Battery Island, MD | 1892 |
| 1877 | Avoca, NC | — | X | — | 1881 |
| | Monument Ponds, DC | — | X | — | 1905 |
| 1878 | Arsenal (Carp) Pond, DC | — | X | — | 1886 |
| 1879 | Spesutic Narrows, MD | — | — | Moved to Battery Island, MD | 1881 |
| | Crooks Creek, CA | — | — | Moved to McCloud River, CA | 1887 |
| | Penobscot Station Orland, ME (became Craig Brook in 1889) | X | — | — | — |
| 1880 | Washington Navy Yard, DC | — | — | Agreement with Navy Department terminated | 1882 |
| | St. Jerome, MD | — | X | — | 1889 |
| | Noank, CT | — | — | Became auxillary to Woods Hole, MA | 1905 |
| | "Fish Hawk" (steamer home ported in Lambertville, NJ) | — | X | — | 1912 |
| | Northville, MI | — | — | Transfer: FWS Division of Fishery Research | 1957 |
| 1881 | Battery Island, MD | — | X | — | 1917 |
| | Central Station (Old Armory Bldg.), DC | — | — | Moved to Commerce Building | 1932 |
| 1882 | Woods Hole, MA | — | — | Transfer: NMFS | 1947 |
| 1883 | Fort Washington, MD | — | — | Moved to Bryans Point, MD | 1891 |
| | Alpena, MI | — | — | Conveyed to City of Alpena | 1933 |
| 1885 | Gloucester City, NJ | — | — | Moved to "Fish Hawk" | 1891 |
| 1887 | Quincy, IL | — | — | Transfer: State of Illinois | 1919 |
| | Gloucester, MA | — | — | Transfer: U.S. Treasury Department | 1954 |
| 1888 | Sandusky, OH | — | — | Moved to Put-In-Bay, OH | 1890 |
| | Baird (formerly McCloud River), CA | — | — | Transfer: Bureau of Reclamation | 1937 |
| | Clackamas, OR | — | — | Transfer: State of Oregon (1955) | 1943 |
| | Neosho, MO | X | — | — | — |
| 1889 | Fort Gaston, CA | — | — | Replaced by Willamette Falls, OR | 1898 |
| | Put-in-Bay, OH | — | — | Transfer: State of Ohio | 1941 |
| | Duluth, MN | — | — | Transfer: University of Minnesota (1948) | 1947 |
| | Leadville, CO | X | — | — | — |
| 1891 | Green Lake (Old), ME | — | — | Transfer: National Park Service (7/8/35) | 1929 |
| | Grand Lakes (Schoodic Stream), ME | — | — | Transfer: State of Maine | 1933 |
| | Yellowstone Park, WY | — | — | Transfer: National Park Service (12/28/62) | 1957 |

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[1] Calender year operations began.

[2] Calender year operations ceased.

| Year | | Status/Disposition | | | Final |
|---|---|---|---|---|---|
| Estab. | Station | Oper. | Closed | Other | Year |
| 1892 | Bryans Point, MD | — | X | — | 1928 |
| 1893 | Korbel, CA | — | X | — | 1896 |
| | Redwood Lake, CA | — | X | — | 1898 |
| | Bozeman, MT | X | — | — | — |
| 1894 | Cape Vincent, NY | — | — | Transfer: State of New York | 1965 |
| 1895 | Meredosia, IL | — | X | — | 1922 |
| | Sandy River, OR | — | X | — | 1925 |
| 1896 | Battle Creek, CA | — | X | — | 1946 |
| | St. Johnsbury, VT | — | — | Transfer: GSA and sold to Sabin Corp. (1961) | 1960 |
| | Wytheville (Old), VA | — | — | Transfer: Department of HEW (10/71) | 1970 |
| 1897 | Olema (Bear Valley), CA | — | X | — | 1898 |
| | Salmon River, OR | — | — | Transfer: State of Oregon (6/15/1899) | 1900 |
| | Upper Clackamas, OR | — | — | Transfer: Oregon State Fish. Commission (1899) | 1931 |
| | Roque River, OR | — | X | — | 1932 |
| | San Marcos (Old), TX | — | — | Transfer: Southwest Texas State College | 1965 |
| | Manchester, IA | — | — | Long-Term Lease: State of Iowa (1975) | 1976 |
| | Erwin, TN | X | — | — | — |
| 1898 | Mill Creek, CA | — | — | Transfer: FWS Division of Fishery Research (2/21/49) | 1948 |
| | Spearfish, SD | — | — | Long-Term Lease: City of Spearfish | 1983 |
| | Little White Salmon, WA | X | — | — | — |
| | Nashua, NH | X | — | — | — |
| 1899 | Eastport, ME* | — | X | — | 1900 |
| | Willamette Falls, OR | — | X | — | 1921 |
| | Baker Lake, WA | — | — | Transfer: U.S.F.S. | 1942 |
| | Bellevue, IA | — | X | — | 1943 |
| | Edenton (Old), NC | — | — | Transfer: Town of Edenton (9/16/61) | 1954 |
| | Warm Springs, GA | X | — | — | — |
| 1900 | Elk Lake (Red Rock), MT | — | — | Transfer: FWS National Wildlife Refuge System (1950) | 1920 |
| 1901 | Grand Mesa, CO | — | X | — | 1905 |
| | Beaufort, NC | — | X | — | 1949 |
| | Spring Creek, WA | X | — | — | — |
| 1902 | Scranton, VT | — | X | — | 1937 |
| | Private John Allen (formerly Tupelo), MS | X | — | — | — |
| | White Sulphur Springs, WV | X | — | — | — |
| 1903 | Charlevoix, MI | — | — | Transfer: City of Charlevoix | 1967 |
| | Boothbay Harbor, ME | — | — | Transfer: FWS Division of Fishery Research | 1950 |
| 1904 | Grants Pass, OR | — | — | Moved to Applegate Creek, OR | 1906 |
| | Upper Penobscot, ME | — | X | — | 1917 |
| | Swanton (Lakewood), VT | — | — | Transfer: State of Vermont (2/3/54) | 1937 |
| | Mammoth Spring, AR | X | — | — | — |
| 1905 | North McGregor, IA | — | X | — | 1920 |
| 1906 | Yes Bay (McDonald Lake), AK | — | — | Transfer: U.S.F.S. (5/31/35) | 1933 |

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* Marine Mussel Study Auxilliary to Gloucester, MA.

| Year Estab. | Station | Status/Disposition | | | Final Year |
|---|---|---|---|---|---|
| | | Oper. | Closed | Other | |
| 1907 | Phinney Creek, WA | — | X | — | 1918 |
| | Afognak, AK | — | — | Transfer: U.S.F.S. | 1933 |
| | Applegate, OR | — | X | — | 1934 |
| | Lacrosse, WI | — | — | Transfer: Division of Fishery Research | 1959 |
| 1908 | Cazadero, OR | — | X | — | 1913 |
| 1909 | Illabot Creek, WA | — | X | — | 1927 |
| | Fairport, IA | — | — | Long-Term Lease: State of Iowa | 1973 |
| | Pittsford, VT | X | — | — | — |
| 1910 | Homer, MN | — | — | Transfer: FWS National Wildlife Refuge System (9/9/53) | 1952 |
| 1911 | Duckabush, WA | — | — | Transfer: U.S.F.S. (1942) | 1943 |
| | Quilcene, WA | X | — | — | — |
| 1912 | Darrington, WA | — | X | — | 1919 |
| | Louisville, KY | — | — | Transfer: State of Kentucky (3/31/52) | 1951 |
| | Orangeburg, SC | X | — | — | — |
| 1913 | Brinnon, WA | — | X | — | 1923 |
| | Friars Point, MS | — | X | — | 1930 |
| | Madison Valley, MT | — | X | — | 1933 |
| | Sultan, WA | — | X | — | 1933 |
| | Birdsview, WA | — | — | Transfer: State of Washington (1952) | 1947 |
| 1914 | Day Creek, WA | — | X | — | 1919 |
| | Quinault (Old), WA | — | — | Transfer: U.S.F.S. | 1947 |
| | Saratoga, WY | X | — | — | — |
| 1916 | Springville, UT | — | — | Transfer: State of Utah (1973) | 1973 |
| | Springville Lab, UT | — | — | Transfer: State of Utah (1974) | 1973 |
| 1917 | St. Helens, OR | — | X | — | 1919 |
| | Berkshire, MA* | X | — | — | — |
| | Black Island, RI** | — | — | — | — |
| 1918 | Paris, ID | — | X | — | 1921 |
| | Atchafalaya, LA | — | — | Replaced by Plaqueine, LA | 1926 |
| | Meadow Creek, MT | — | — | Transfer: State of Montana (9/13/56) | 1941 |
| 1919 | Bay City, MI | — | X | — | 1922 |
| | Washougal River, WA | — | X | — | 1923 |
| | Key West, FL | — | X | — | 1929 |
| | Glacier National Park, MT | — | X | — | 1939 |
| 1921 | Marquette, IA | — | X | — | 1941 |
| | Salmon, ID | — | — | Transfer: BLM (6/13/56) | 1946 |
| 1922 | Roaring River, MO | — | — | Termination of Agreement | 1923 |
| | Harris Ponds, GA | — | X | — | 1934 |
| | Phalon, WA** | — | — | — | — |
| 1923 | Rock Island, IL | — | X | — | 1928 |
| | Lost Creek, WY | — | — | Returned to BLM (7/27/48) | 1931 |
| | Lakeland Ponds, MD | — | X | — | 1934 |
| | Langdon, KS | — | X | — | 1934 |
| | Bourbon, MO | — | — | Transfer: Salvation Army (1954) | 1954 |

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* Operated prior to 1919 as Hartsville. Operated by State of Massachusetts and Izaak Walton League from 1966 to 1971. Reactivated as a national fish hatchery in 1971.

** Authorized, but never operated.

| Year Estab. | Station | Status/Disposition | | | Final Year |
|---|---|---|---|---|---|
| | | Oper. | Closed | Other | |
| 1924 | Kerrville, TX | — | X | — | 1925 |
| | Snake River, OR | — | — | Moved to Salmon, ID | 1925 |
| | Medina Lake, TX | — | X | — | 1930 |
| | New Braunfels, TX | — | X | — | 1932 |
| 1925 | Plaquemine, LA | — | X | — | 1927 |
| | Mystic Lake, MT | — | X | — | 1927 |
| | Lynxville, WI | — | — | Transfer: City of Lynxville | 1939 |
| 1926 | Ozette, WA | — | X | — | 1927 |
| | Wind River, WA | — | — | Transfer: State of Washington | 1936 |
| 1927 | Fort Worth, TX | — | — | Transfer: State of Texas (7/1/75) | 1974 |
| 1928 | Barneveld, NY | — | X | — | 1940 |
| | Fort Belvoir (Fort Humphries), VA | — | — | Transfer: DoD (1955) | 1950 |
| | Miles City (Old), MT | — | — | Transfer: Department of Agriculture (4/18/62) | 1962 |
| | Tishomingo, OK | X | — | — | — |
| | Crawford, NE | — | — | Long-Term Lease: State of Nebraska | 1984 |
| 1929 | Aliceville, AL | — | — | Transfer: State of Alabama | 1933 |
| | Ogletown, PA | — | X | — | 1942 |
| | Creede, CO | — | — | Transfer: State of Colorado (1966) | 1965 |
| 1930 | Jacksonboro, SC | — | X | — | 1940 |
| | Clare County Nursery, MI | — | X | — | 1945 |
| | Trempealeau Ponds, WI | — | X | — | 1948 |
| | Upper Mississippi Rearing Ponds, WI | — | X | — | 1948 |
| | Lake Park (Valdosta), GA | — | X | Transfer: DoD (6/15/84) | 1948 |
| | Berlin, NH | — | — | Long-Term Lease: State of New Hampshire | 1982 |
| 1931 | Benzal, AR | — | — | Transfer: State of Arkansas | 1931 |
| | Mt. Rainier, WA | — | — | Transfer: NPS (11/4/55) | 1942 |
| | Grebe Lake, WY | — | — | Transfer: NPS (12/28/62) | 1943 |
| | Rochester, IN | — | X | — | 1965 |
| | Cortland, NY | — | — | Transfer: FWS Division of Fishery Research | 1972 |
| | Leetown, WV | — | — | Transfer: FWS Division of Fishery Research | 1977 |
| | Tylersville, PA | — | — | Transfer: State of Pennsylvania | 1983 |
| | Lake Mills, WI | — | — | Long-Term Lease: State of Wisconsin | 1983 |
| | Dexter, NM | X | — | — | — |
| | Ennis, MT | X | — | — | — |
| | Genoa, WI | X | — | — | — |
| | Hagerman, ID | X | — | — | — |
| | Lamar, PA | X | | | — |
| | Natchitoches, LA | X | — | — | — |
| 1932 | Butte Falls, OR | — | — | Transfer: ½ State of Oregon; ½ BuRec (1950) | 1943 |
| | Flintville, TN | — | — | Transfer: State of Tennessee (3/11/54) | 1943 |
| | Eagle Nest, NM | — | — | Transfer: State of New Mexico (1/16/64) | 1963 |
| | Mammonth Hot Springs, WY | — | — | Transfer: State of Wyoming (7/1/75) | 1974 |
| | Marion, AL | — | — | Long-Term Lease: ½ State of Alabama; ½ FWS Division of Fishery Research (7/1/84) | 1974 |
| | Deschutes, OR* | — | — | — | — |
| 1933 | Bear Lake, UT | — | — | Transfer: BLM (1953) | 1942 |
| | Blaine Springs, MT | — | X | — | 1938 |
| | Crystal Lake, CO | — | X | — | 1949 |
| | Wichita Mountain Falls Rearing Ponds, OK | — | — | Transfer: FWS National Wildlife Refuge System | 1950 |

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* Authorized but never operated.

| Year Estab. | Station | Status/Disposition | | | Final Year |
|---|---|---|---|---|---|
| | | Oper. | Closed | Other | |
| 1934 | Pittsford (Power Mill Park), NY | — | — | Transfer: Monroe County (5/31/51) | 1947 |
| | Jackson (Old), WY | — | — | Transfer: Town of Jackson | 1948 |
| | Harrison Lake, VA | X | — | — | — |
| 1935 | Spokane, WA | — | — | Transfer: State of Washington (7/10/56) | 1942 |
| | Argos, IN | — | X | Transfer: Issak Walton League (1969) | 1954 |
| | San Angelo, TX | — | — | Transfer: ½ State of Texas; ½ BuRec (1957) | 1954 |
| | Senecaville, OH | X | — | — | — |
| | Uvalde, TX | X | — | — | — |
| | Walhalla, SC | X | — | — | — |
| 1935 + | Yakima Fish Screens | X | — | — | — |
| 1936 | Delph Creek (Estacada), OR | — | — | Transfer: State of Oregon (1955) | 1954 |
| | New Castle, VA | — | X | — | 1965 |
| 1937 | Norris, TN | — | — | Transfer: T.V.A. | 1944 |
| | Smokemont, NC | — | — | Transfer: NPS (1948) | 1948 |
| | Arcadia, RI | — | — | Transfer: State of Rhode Island (1967) | 1964 |
| | Carpenters Brook, NY | — | X | — | 1964 |
| | Hot Springs (Elephant Butte), NM | — | — | Transfer: BuRec (9/9/65) | 1965 |
| | Pisgah Forest (Old), NC* | — | X | — | 1965 |
| | Santa Rosa, NM | — | — | Transfer: Department of Agriculture | 1970 |
| | Lyman, MS | — | — | Transfer: State of Mississippi | 1973 |
| | Carson, WA | X | — | — | — |
| | McKinney Lake, NC | X | — | — | — |
| | Welaka, FL* | X | — | — | — |
| 1938 | Mullan (aka Hale), ID | — | — | Transfer: County | 1942 |
| | Palestine, WV | — | — | Transfer: State of West Virginia | 1940 |
| | Moorefield, WV | — | X | — | 1944 |
| | Forest Park, MO | — | X | — | 1947 |
| | Allegheny Forest (Farnsworth), PA | — | X | — | 1965 |
| | Guttenberg, IA | — | — | Transfer: FWS National Wildlife Refuge System | 1971 |
| | Cohutta, GA | — | — | Long-Term Lease: University of Georgia | 1983 |
| | Corning, AR | — | — | Long-Term Lease: State of Arkansas | 1983 |
| | Inks Dam, TX | X | — | — | — |
| | Chattahoochee, GA | X | — | — | — |
| | Hiawatha Forest, MI* | X | — | — | — |
| | Leavenworth, WA | X | — | — | — |
| | Valley City, ND | X | — | — | — |
| 1939 | Clark Fork, ID | — | — | Transfer: State of Idaho | 1942 |
| | Cascade Rearing Ponds, MN | — | — | Transfer: U.S.F.S. (1952) | 1943 |
| | Chequamegon National Forest, WI | — | — | Transfer: U.S.F.S. (1952) | 1943 |
| | Huron National Forest, MI | — | X | — | 1943 |
| | Mariana, FL | — | — | Transfer: State of Florida (7/44) | 1943 |
| | Las Vegas, NV | — | — | Transfer: ½ FWS National Wildlife Refuge System; ½ City of Las Vegas (1948) | 1944 |
| | St. Matthews, SC | — | — | Transfer: Town of St. Matthews (1954) | 1944 |
| | Marquette National Forest, MI | — | — | Transfer: U.S.F.S. | 1945 |
| | Elk River, AL | — | — | Transfer: T.V.A. (1951) | 1950 |
| | Farlington, KS | — | — | Transfer: State of Kansas (6/30/71) | 1971 |
| | Hebron, OH | — | — | Long-Term Lease: State of Ohio | 1982 |
| | New London, MN | — | — | Long-Term Lease: State of Minnesota | 1983 |
| | Williams Creek, AZ | X | — | Transfer: B.I.A. (Pending) | — |
| | Carbon Hill, AL | X | — | — | — |
| | Meridan, MS | X | — | — | — |

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* Established in second half of year.

| Year Estab. | Station | Status/Disposition | | | Final Year |
|---|---|---|---|---|---|
| | | Oper. | Closed | Other | |
| 1940 | Sun Valley, ID | — | X | — | 1941 |
| | Franklin County, NC | — | — | Transfer: U.S.F.S. | 1942 |
| | Salem, ME | — | — | Transfer: State of Maine (10/22/54) | 1945 |
| | Warm River, ID | — | — | Transfer: State of Idaho (2/20/52) | 1951 |
| | Austin, TX | — | X | — | 1968 |
| | Entiat, WA | X | — | — | — |
| | Winthrop, WA | X | — | — | — |
| 1941 | Watertown (Burrs Mill), NY | — | X | — | 1942 |
| | Lawton, OK | — | — | Transfer: City of Lawton (4/23/46) | 1946 |
| 1942 | Coleman, CA | X | — | — | — |
| 1944 | Cheraw, SC | — | — | Long-Term Lease: State of South Carolina | 1983 |
| | Creston, MT | X | — | — | — |
| | Orangeburg County, SC | X | — | — | — |
| 1945 | Colorado Springs Rearing Ponds, CO | — | X | — | 1946 |
| 1947 | Carterville, IL | — | — | Transfer: FWS National Wildlife Refuge System | 1954 |
| 1948 | Dover Coop (ponds only), DE | — | X | — | 1952 |
| 1949 | Pequest, NJ | — | — | Transfer: State of New Jersey (1955) | 1955 |
| | McNenny, SD | — | — | Long-Term Lease: State of South Dakota | 1983 |
| 1950 | Baldhill Dam, ND | X | — | — | — |
| | Millen, GA | X | — | — | — |
| | Pendills Creek, MI | X | — | — | — |
| 1951 | North Attleboro, MA | X | — | — | — |
| | Willard, WA | X | — | — | — |
| 1952 | Frankfort, KY | X | — | — | — |
| 1953 | Eagle Creek, OR | X | — | — | — |
| 1956 | Norfork, AR | X | — | — | — |
| 1957 | Miles City (New), MT | — | — | Long-Term Lease: State of Montana | 1983 |
| | Pisgah Forest (New), NC | — | — | Land returned to U.S.F.S. Long-Term Lease (Facilities): State of North Carolina | 1983 |
| | Abernathy, WA | X | — | — | — |
| | Gavins Point, SD | X | — | — | — |
| | Jackson, WY | X | — | — | — |
| 1958 | Cedar Bluff, KS | — | — | Long-Term Lease: State of Kansas | 1983 |
| | Paint Bank, VA | — | — | Long-Term Lease: State of Virginia | 1983 |
| | Bowden, WV | X | — | — | — |
| | Garrison Dam, ND | X | — | — | — |
| 1960 | Edenton (New), NC | X | — | — | — |
| 1961 | Willow Beach, AZ | X | — | — | — |
| 1963 | Alchesay, AZ | — | — | Transfer: B.I.A. (Pending) | — |
| | Jordan River, MI* | X | — | — | — |

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* Established in second half of year.

| Year Estab. | Station | Status/Disposition | | | Final Year |
|---|---|---|---|---|---|
| | | Oper. | Closed | Other | |
| 1964 | Wytheville (New), VA | — | — | Long-Term Lease: State of Virginia | 1983 |
| | Dale Hollow Dam, TN | X | — | — | — |
| | Greers Ferry, AR | X | — | — | — |
| | Lahontan, NV | X | — | — | — |
| 1965 | Mescalero, NM | — | — | Transfer: B.I.A. (Pending) | — |
| 1967 | Hotchkiss (formerly Delta), CO | X | — | — | — |
| | Tehama-Colusa Spawning Channels, CA | X | — | — | — |
| 1968 | Jones Hole, UT | X | — | — | — |
| 1969 | Quinault, WA | — | — | Transfer: B.I.A. | 1984 |
| | Dworshak, ID | X | — | — | — |
| | San Marcos, TX | X | — | — | — |
| 1970 | Kooskia, ID | X | — | — | — |
| 1974 | Allegheny, PA | X | — | — | — |
| | Green Lake (New), ME | X | — | — | — |
| | Marble Bluff Fishway, NV | X | — | — | — |
| | San Marcos (New), TX | X | — | — | — |
| | Warm Springs, OR | X | — | — | — |
| 1975 | Wolf Creek, KY | X | — | — | — |
| 1978 | White River, VT | X | — | — | — |
| 1981 | Iron River, WI | X | — | — | — |
| | Makah, WA | X | — | — | — |
| | Bears Bluff, SC | X | — | — | — |
| | Beulah (aka Ranch "A"), WY | X | — | — | — |
| 1982 | Litchfield (aka Merrimack), NH | X | — | — | — |
| 1983 | Sunderland, MA | X | — | — | — |

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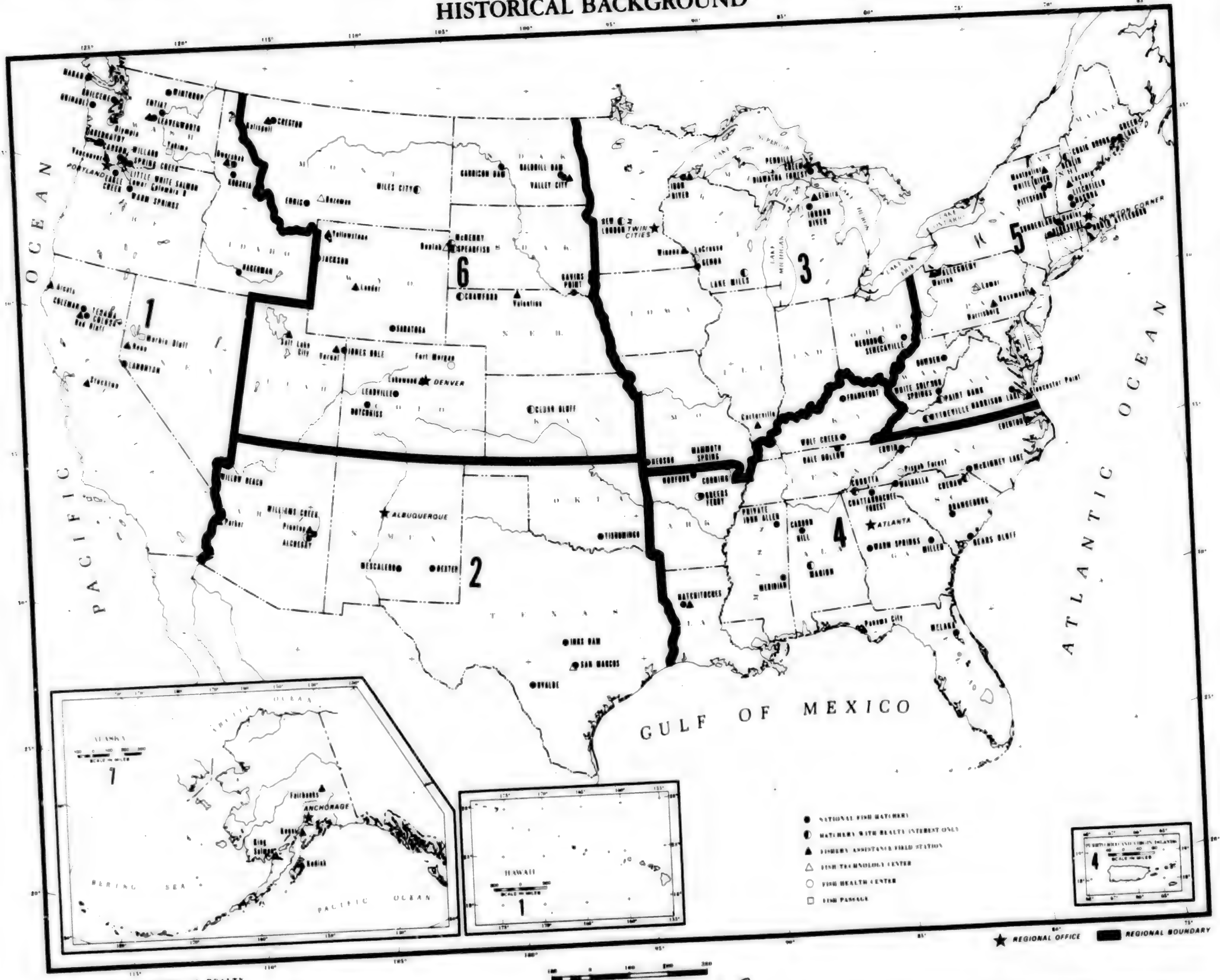
# HISTORICAL BACKGROUND



COMPILED IN THE DIVISION OF REALTY

WASHINGTON, D.C. SEPTEMBER 30, 1984

22

U.S. Fish and Wildlife Service
Fishery Resources Program

# STATUTORY MANDATES AND AUTHORITIES

## Part I—General Authorizations

1. **Anadromous Fish Conservation Act,** as amended (16 U.S.C. 757a-757f).

   Authorizes the Secretary of the Interior to enter into cooperative agreements with the States and other non-Federal interests for conservation, development, and enhancement of the Nation's anadromous fishery resources.

2. **Department of Transportation Act** (16 U.S.C. 1653f).

   Section 4 of Public Law 89-670, approved October 15, 1966, provides for maintenance of natural beauty on lands traversed by highway projects and for preservation of wildlife refuges and public parks through consultation with the Secretary of the Interior.

3. **Endangered Species Act of 1973,** as amended (16 U.S.C 1531-1543).

   Implemented the Convention of International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249) signed by the United States March 3, 1973, and the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (50 Stat. 1354) signed by the United States October 12, 1940. Provides for the conservation of threatened and endangered species of fish, wildlife and plants by Federal action and by encouraging the establishment of State programs. The Act authorizes the determination and listing of endangered and threatened species and the range in which such condition exists; prohibits unauthorized taking, possession, sale, transport, etc., of endangered species; provides authority to acquire land for the conservation of listed species with funds authorized under the Land and Water Conservation Fund Act of 1965 (U.S.C. 4601-4-4601-11); authorizes establishment of cooperative agreements and grants-in-aid to those States which establish and maintain an active and adequate program for endangered and threatened wildlife; and authorizes the assessment of civil and criminal penalties for violating the Act or regulations. Section 7 requires Federal agencies to insure that any action authorized, funded or carried out by them is not likely to jeopardize the continued existence of listed species or modify their critical habitat. Public Law 95-632, approved on November 10, 1978 (92 Stat. 375), made extensive revisions in the 1973 law. Other amendments were made by Public Laws 96-159 and 97-304 in 1979 and 1982, respectively. A Cabinet-level Endangered Species Committee was established as part of a two-tiered process whereby Federal agencies may obtain an exemption from the requirements of section 7. The Secretary of Defense is authorized to specify exemptions from the Act of reasons of national security. The consultation process under section 7 was formalized and strengthened, and now includes the requirement that a Federal agency prepare a biological assessment in cases where the Secretary has advised that a listed species may be present. The amendments also oblige the Secretary to consider the economic impact of designating critical habitat and to review the list of endangered and threatened species every five years. Public notification and hearing requirements prior to the listing of a species or its habitat are specified. A provision for cooperative agreements with States for the conservation of endangered and threatened species of plants was also included in the amendments. The listing process was streamlined, requiring the Service to act "to the maximum extent practicable" within a 90 day period. Also, within 12 months of receiving a "substantial" petition, the Service must publish a proposed rulemaking, determine that the petitioned action is not warranted, or determine that the action is warranted, but that other actions preclude undertaking new actions.

4. **Estuary Protection Act** (16 U.S.C. 1221-1226).

   Expresses Congressional policy on values of estuaries and need to conserve their natural resources. Authorizes the Secretary of the Interior, in cooperation with other Federal agencies and the States, to study and inventory estuaries of the United States, including land and water of the Great Lakes. Also, authorizes the Secretary to enter into cost-sharing agreements with States and subdivisions for permanent management of estuarine areas in their possession. Requires that the Secretary provide his views and recommendations on all projects that impact estuarine areas and that require Congressional approval.

5. **Exclusive Economic Zone of the United States of America** (Presidental Proclamation 5030 of March 10, 1983).

   This Presidential action proclaims the sovereign rights and jurisdiction of the the United States over natural resources and other activities in an Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States as well as its territories and possessions, and extending generally from three miles to 200 nautical miles offshore. This assertion of sovereign rights over the EEZ is intended to advance the development of ocean resources and promote the protection of the marine environment while not affecting other lawful uses of the EEZ, including the freedom of navigation and overflight by citizens of other nations. Neither does the proclamation change established U.S. policies concerning the continental shelf, marine mammals, and fishes, including highly migratory species such as the tunas.

6. **Federal Aid in Sport Fish Restoration Act of August 9, 1950,** as amended (16 U.S.C. 777-777k).

This Act which has been amended several times is commonly referred to as the "Dingell-Johnson Act." It was most recently amended by P.L. 98-369, which was approved on July 18, 1984. It provides Federal aid to the States for management and restoration of fish having "material value in connection with sport or recreation in the marine and/or fresh waters of the United States." Funds from excise taxes on certain items of sport fishing tackle (Internal Revenue Code of 1954, sec. 4161) are appropriated to the Secretary of the Interior annually and apportioned to States on a formula basis for paying up to 75 percent of the cost of approved land acquisition, research, development and management projects. An amendment on October 23, 1970, by P.L. 91-503 (84 Stat. 1101) provided, among other things, for development of comprehensive fish and wildlife resource management plans as an optional means for participating in the program. Over $432 million has been apportioned to the States for fish restoration projects since this program began in 1952.

7. **Federal Power Act,** as amended (16 U.S.C. 791a-825r).

Provides, among other things for cooperation between the Federal Power Commission (now the Federal Energy Regulatory Commission—FERC) and other Federal agencies in the investigation of proposed power projects, and for other agencies to provide information to FERC upon request. Provides that licenses issued by FERC for hydroelectric projects within Indian reservations, national wildlife refuges and other specified areas that are withdrawn from the public domain must contain conditions that the Secretary of the Interior may require. Requires a Commission finding before approving private hydroelectric applications that the project is "best adapted" to a comprehensive waterway development plan for all public uses, including recreation. Requires licensees to construct fishways when required by the Secretary of the Interior.

8. **Federal Water Pollution Control Act Amendments,** as amended (33 U.S.C. 1251-1365, 1281-1292, 1311-1328, 1341-1345, 1361-1376).

The 1972 amendments (P.L. 92-500, 86 Stat. 816) represented a major initiative to restore the quality of the Nation's waters. A major national goal established by the amendments was the achievement of water quality which provides for protection and propagation of fish, shellfish, and wildlife. Title IV (33 U.S.C. 1341-1345; 86 Stat. 877) set up a Federal permit and license system to carry out certain pollution discharge activities in navigable waters. Section 402 (33 U.S.C. 1342; 86 Stat. 880) requires permits from the Environmental Protection Agency for the discharge of any pollutant into navigable water (National Pollutant Discharge Elimination System Permits). Section 403 (33 U.S.C. 1343; 86 Stat. 883) provides for control of ocean discharges. Section 404 (33 U.S.C. 1344; 86 Stat. 884) provides for the Corps of Engineers to issue permits for the discharge of dredged or fill materials into the navigable waters with oversight by the Environmental Protection Agency. Permit applications may be reviewed by the U.S. Fish and Wildlife Service for impacts on fish and wildlife. Section 405 (33 U.S.C. 1345; 86 Stat 884) provides for regulating the disposal of sewage sludge. Public Law 95-217, the Clean Water Act of 1977 (91 Stat. 1566), provides further that approved State programs may substitute for the Federal 404 permit program. This and other amendments substantially increase the Service's consultative responsibilities under the Act. The 1977 amendment also extended the target dates for achieving national water quality standards established in the Act.

9. **Fish and Wildlife Act of 1956,** as amended (16 U.S.C. 742a-742j).

Established a comprehensive national fish and wildlife policy; directs the Secretary of the Interior to provide continuing research, extension and information services, and to take any necessary steps to develop, manage, protect, and conserve fishery and wildlife resources, including research, acquisition of refuge lands, development of existing facilities and other means.

10. **Fish and Wildlife Coordination Act,** as amended (16 U.S.C. 661-666c).

Authorizes assistance to Federal, State, and other agencies in development, protection, rearing, and stocking of fish and wildlife and controlling losses thereof. Authorizes surveys of fish and wildlife of all Federal lands and on effects of pollution. Authorizes surveys to prevent losses of, and to enhance, fish and wildlife at water-use projects constructed or licensed by the Federal Government. Authorizes incorporation of conservation measures at Federal waters projects and use of project lands by the U.S. Fish and Wildlife Service or State wildlife agencies. Also requires that the costs of constructing, operating, and maintaining measures to prevent or compensate for damages to fish and wildlife caused by a Federal project be considered integral costs of the project.

11. **Fish and Wildlife Conservation Act of 1980** (16 U.S.C. 2901-2911).

Authorizes $20 million over four years for development of comprehensive State plans for non-game species and implementation of non-game projects. Directs FWS to undertake a study of alternative funding mechanisms.

12. **Indian Self-Determination and Education Assistance Act of 1976** (25 U.S.C. 450-450n).

This Act, approved January 4, 1975 (P.L. 93-638), recognizes and responds to the strong desire of Indian people to control relationships among themselves and with non-Indian governments, organizations, and persons. It also assures maximum Indian participation in making educational and other Federal services to Indian communities more responsive to the needs and desires of those communities, and commits the Federal Government to maintain its unique and continuing relationship with and responsibility to Indian people. Further, it establishes requirements, procedures, and provisions for Indian tribes and the Departments of the Interior and Health and Human Services regarding contractual arrangements and grants, and mandates that all rights and benefits will be retained by Federal employees subsequently employed by tribal organizations as a result of this Act. The sovereign immunity and trusteeship rights enjoyed by any Indian tribe are not affected by this Act.

13. **Magnuson Fishery Conservation and Management Act of 1976** (16 U.S.C 1801-1882).

    Often referred to as the "Magnuson Act." Established a 200-mile fishery conservation zone (FCZ), effective March 1, 1977. Also established, among other things, were eight Regional Fishery Management Councils on each of which the U.S. Fish and Wildlife Service is a non-voting member.

14. **National Aquaculture Act of 1980,** as amended (16 U.S.C. 2801-2810)

    Directs the Secretary of the Interior to participate in establishing the National Aquaculture Development Plan and authorizes research, development, and other activities to encourage advancement of aquaculture in the United States. A 1984 amendment (P.L. 98-623) extended the authorization of this Act through FY 1985 and authorized $1,000,000 for Department of the Interior implementation of the Act.

15. **National Environment Policy Act of 1969** (42 U.S.C. 4321-4347).

    Requires all Federal agencies to consult with each other and to employ systematic and interdisciplinary techniques in planning and decisionmaking. It also requires that every recommendation or report on proposals for legislation or other major Federal actions significantly affecting the quality of the human environment include a detailed statement of:

    "(i) the environmental impact of the proposed action,

    "(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

    "(iii) alternatives to the proposed action,

    "(iv) the relation between local short term uses and . . enhancement of long term productivity, and

    "(v) any irreversible and irretrievable commitments of resources . . . involved . . . in the proposed action."

16. **National Wildlife Refuge System Administration Act of 1966,** as amended (16 U.S.C. 668dd-668ee).

    Constitutes an "Organic Act" for the National Wildlife Refuge System and provides guidelines and directives for administration and management of all all areas in the system including "wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas."

17. **Reorganization Plan No. 4 of 1970** (5 U.S.C. Appendix).

    Transferred to the Secretary of Commerce, effective October 3, 1970, all functions vested by law in the former Bureau of Commericial Fisheries (BCF) together with functions of the Department of the Interior administered through, or related primarily to, that Bureau; only Great Lakes fishery research, activities related to the Great Lakes Fishery Commission, and a few other activities were excepted. Concurrently established in the Department of Commerce was the National Oceanic and Atmospheric Administration, which included the position of Assistant Administrator for Fisheries with responsibility for all matters related to living marine resources. The organization headed by the Assistant Administrator for Fisheries is usually referred to as the National Marine Fisheries Service (NMFS). To it was transferred the personnel, property, records, and unexpended funds of the now-defunct BCF.

18. **Rivers and Harbors Act of 1899,** as amended (33 U.S.C. 401 et seq.).

    The Act of March 3, 1899, among other things makes it unlawful for anyone to conduct any work or activity in navigable waters of the United States without a Federal permit. Under section 10 of the Act (33 U.S.C. 403; 90 Stat. 1151), dikes, dams and similar obstructions to navigation require the consent of Congress unless the navigable portion of the involved water body lies wholly in one State in which case the structure may be built under authority of the State with approval of the Chief of Engineers and the Secretary of the Army. The Secretary of the Army is authorized to issue permits to construct piers, jetties and similar structures, or to dredge and fill in navigable waters. Under section 9 of the Act (33 U.S.C. 401; 30 Stat. 1151), the Secretary of Transportation [acting through the U.S. Coast Guard] is authorized to issue permits for the construction of bridges and causeways over navigable waters. Authority of the Corps of Engineers to issue permits for the discharge of refuse into or affecting navigable waters under section 13 of the 1899 Act (33 U.S.C. 407; 30 Stat. 1152) was modified by Title IV of Public Law 92-500, October 18, 1972, the Federal Water Pollution Control Act Amendments of 1972, as amended (33 U.S.C. 1341-1345; 86 Stat. 877) establishing National Pollutant Discharge Elimination System Permits. The Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661-666c; 48 Stat. 401) provides authority for the U.S. Fish and Wildlife Service to review and comment as to the effects on fish and wildlife of the works and activities proposed to be undertaken or permitted by the Corps of Engineers.

19. **Recreation Use of Conservation Areas Act** (16 U.S.C. 460k-460k-4).

    Commonly known as the Refuge Recreation Act of 1962.

Authorizes the Secretary of the Interior to administer refuges, hatcheries, and other conservation areas for recreational use when such use does not interfere with the primary purpose for which these areas were established. Also provides for public use fees, permits, and penalties for violations of regulations.

20. **Sikes Act,** as amended (16 U.S.C. 670a-670o).

    Public Law 86-797, approved September 15, 1960, provided for cooperation by the Departments of the Interior and Defense with State agencies in planning, development and maintenance of fish and wildlife resources on military reservations throughout the United States. Public Law 93-452 of October 18, 1974 (88 Stat. 1369) authorized conservation and rehabilitation programs on AEC (now DOE), NASA, Forest Service and BLM lands. These programs are carried out in cooperation with the States by the Secretary of the Interior and on Forest Service lands by the Secretary of Agriculture. The 1974 law authorized appropriations through June 30, 1978, to the Departments of Defense, Interior, and Agriculture. The Secretary's funding authorization (16 U.S.C. 670o) was subsequently extended through September 30, 1981, by P.L. 95-420 (92 Stat. 921; approved October 5, 1978) and through September 30, 1985, by P.L. 97-396.

21. **Watershed Protection and Flood Prevention Act,** as amended (16 U.S.C. 1001-1009).

    The Act of August 4, 1954, also referred to as the Small Watershed Projects Act or Public Law [84-]566, declares a policy of assisting State and local organizations in preventing erosion, floodwater and sediment damages in watersheds and to further "the conservaton, development, utilization and disposal of water, and the conservation and utilization of land." Authorizes the Secretary of Agriculture to assist local organizations in preparing and carrying out certain works of improvement. Section 12 of the Act, as added by Public Law 85-624, August 12, 1958 (16 U.S.C. 1008; 72 Stat. 567), directs that the Secretary of the Interior be notified of approval of assistance so that he "may make surveys and investigations" and recommend measures for "conservation and development of wildlife resources," However, inclusion of such measures in the project are discretionary with the local organization and the Secretary of Agriculture. The cost of such conservation surveys and reports must be borne by the Secretary of the Interior.

## Part II—Area-Specific Authorizations

1. **Alaska National Interest Lands Conservation Act** (16 U.S.C. 3101).

   Provides for the designation and conservation of certain public lands in Alaska, including designation of units of the National Wildlife Refuge System. Establishes nine new and enlarges seven existing national wildlife refuges, directs specific studies of fish and wildlife resources in several regions of Alaska, and establishes subsistence use of renewable resources as the priority use on public lands.

2. **Belloni Decision** (302 F. Supp. 899 (1969); *affirmed*, 529 F. 2d 570 (1976)).

   Two suits against Oregon and Washington acting under the Columbia River Compact ratified by Congress in 1918 (40 Stat. 515) namely *Sohappy v. Smith* and *U.S. v. Oregon* which concerned regulation of Indian and non-Indian commercial fishing above Bonneville Dam, were initiated in 1968. These cases were consolidated as *U.S. v. Oregon* and heard by Federal District Judge Robert Belloni. In his 1969 decision, Judge Belloni limited the power of the States of Oregon and Washington to regulate Indian treaty fishing, holding that such regulation must: be necessary for conservation; not discriminate actively or passively against Indians; and must meet special "appropriate" standards to protect the treaty fishery. He held that the States may use their police power to regulate Indian treaty fishing rights ". . . only to the extent necessary to prevent the exercise of that right in a manner that will imperil the continued existence of the fish resource. . . . To prove necessity, the State must show there is a need to limit the taking of fish and that the particular regulation sought to be imposed upon the exercise of the treaty right is necessary to the accomplishment of the needed limitation." These necessity limitations apply equally to regulations restricting gear and to those that restrict the time of harvesting. Judge Belloni also held that the States had an affirmative duty to protect the Indian fishery. Non-discrimination meant that the States' regulatory scheme as a whole must provide a fair share of fish to the tribes. "[T]he state cannot so manage the fishery that little or no harvestable portion of the run remains to reach the upper portions of streams where the historic Indian places are mostly located." In addition, the States' regulations must be "appropriate," so that "one must consider the interest to be protected or objective to be served. In the case of regulations affecting Indian treaty fishing rights, the protection of the right to take fish at the usual and accustomed places must be an objective of the States' regulatory policy co-equal with the conservation of fish runs for other users." Finally, Judge Belloni ordered the States to give the tribes appropriate notice and an opportunity "to participate meaningfully in the rule-making process." By determining that the tribes were entitled to take a fair share of the harvestable fish at their usual and accustomed grounds, *U.S. v. Oregon* contained the seeds of a new doctrine. In subsequent rulings, the courts ordered the States to seek the "least restrictive alternatives" to assure conservation, holding State regulations strictly accountable to *U.S. v. Oregon* standards. Most importantly, they defined the treaty "fair share" as 50 percent of all fish destined to return above Bonneville Dam.

3. **Boldt Decision** (384 F. Supp. 312 (1974); affirmed, 520 F. 2d 676 (1975); cert. denied, 423 U.S. 1086 (1976).

Federal District Judge George Boldt's February 1974 decision on Phase I of *U.S. v. Washington* meant, in essence that treaties signed with the Indian tribes of Western Washington in 1854 and 1855 reserved to the tribes 50 percent of harvestable portions of certain runs of salmon and steelhead. That ruling was subsequently upheld, vitrually in its entirety, by the Supreme Court. The question facing the Court in the first phase of the case was the meaning of a provision (or its equivalent) included in treaties negotiated between the Federal Government and the Indian tribes of western Washington in the mid-1850's. That provision read: "The right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians, in common with all citizens of the territory." The Court decided that that phrase meant the Indian tribes within a broad geographic area in Western Washington had an enforceable right to 50 percent of the allowable salmon and steelhead catches within the case area. The "case area" includes all of the watersheds and marine fishing areas of Puget Sound, the Strait of Juan de Fuca and the coast of Washington from Grays Harbor north. The proportion of the harvest available to tribal members is based on a court-developed formula. Harvestable fish are defined to be, after deducting for spawning requirements, the total number of fish within the case area (under regulatory jurisdiction of the State of Washington) available for harvest by the treaty tribes. The Court also provided an adjustment to compensate the tribes for fish harvested enroute by non-treaty fishermen within Washington waters. The two issues separated for a later hearing as Phase II of *U.S. v. Washington* are whether the treaties provide the tribes with the ability to protect the salmon fishery habitat from "substantial and adverse impacts" and whether the treaty right includes fish reared in State hatcheries. In November 1982, a three-member panel of the U.S. Court of Appeals for the Ninth Circuit reviewed the District Court's 1980 *Boldt II* decision (694 F. 2d 1374 (1982)) and disagreed with the District Court on the environmental issue. In April 1983, however, the Ninth Circuit vacated that decision and decided to rehear the case before the entire Court (704 F. 2d 1141 (1983)). A new issue—non-treaty catch accounting (NTCA)—has evolved as central to the case and is presently being addressed by the Courts. With this decision, as successively with others like it, there is brought into new focus the dual trust responsibility borne by the Secretary of the Interior, namely, to protect in perpetuity both the treaty-secured, court-upheld fishing right itself, and the productivity of the fishery resources that are the subject of its exercise.

4. **Mitchell Act,** as amended (16 U.S.C. 755-757).

Authorizes the Secretary of Commerce to establish salmon-culture stations in the Columbia River Basin and to conduct investigations, engineering and biological surveys, and experiments as necessary for the conservation of fishery resources.

5. **Water Resources Development Act of 1976** (90 Stat. 2921).

Section 102 authorizes and directs the implementation of the Lower Snake River Compensation Plan to mitigate for fish and wildlife losses resulting from four Corps of Engineers dams constructed on the lower Snake River.

6. **Pacific Northwest Electric Power Planning and Conservation Act** (16 U.S.C. 839).

The purpose of this Act is, in part, to provide for participation of States, local governments, consumers, customers, and users (including Federal and State fish and wildlife agencies and appropriate Indian tribes) of electric power generated or transmitted by the Columbia River Federal Power System in the development of plans and programs for protecting, mitigating, and enhancing fish and wildlife resources and providing environmental quality. Another purpose is to ensure that customers of the Bonneville Power Administration (BPA) and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources in meeting the region's electric power requirements. Subsection 4(a) (16 U.S.C. 839b(a)) established the Pacific Northwest Electric Power and Conservation Planning Council (the Council) to promptly prepare and adopt (1) a regional conservation and electric power plan, and (2) a program to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries as a system (the Program). Subsection 4(h) (16 U.S.C. 839b(h)) provides guidance for developing the Program. Specifically, that subsection requires that the Program be developed and subsequently amended on the basis of recommendations solicited from Federal agencies and the region's State fish and wildlife agencies and Indian tribes of measures to protect, mitigate, and enhance fish and wildlife and their habitats. Other interested or affected entities from the region may also submit such recommendations. The Council must adopt the Program and any subsequent amendments within one year after the receipt of such recommendations. The Fish and Wildlife Program adopted by the Council must be included in the Regional Conservation and Electric Power Plan (the Plan) required under Subsection 4(d) (16 U.S.C. 839b(d)). The Administrator of BPA is directed to use the BPA Fund and other available authorities to protect, mitigate, and ehnance fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River or its tributaries in a manner consistent with the Plan and its Fish and Wildlife Program. Such expenditures shall be in addition to, not in lieu of, other expenditures authorized or requierd from other entities under other agreements or provisions of law.

7. **Pacific Salmon Treaty Act of 1985** (P.L. 99-5).

This Act approved March 15, 1985 implements the treaty between the United States and Canada concerning

Pacific salmon (the Treaty) agreed to by authorized respresentatives of both nations in Seattle, WA, on January 16, 1985, and signed in Ottawa, Ontario, on January 28, 1985. The treaty went into force when signed by President Reagan and Canadian Prime Minister Brian Mulroney in Quebec City, Quebec, on March 18, 1985. The Act specifies that the U.S. Section of the Pacific Salmon Commission (the Commission) established by the Treaty shall consist of four U.S. Commissioners knowledgeable or experienced concerning Pacific salmon. The Commissioners are to be appointed by the President and represent the major interests involved—the States of Alaska, of Oregon and Washington, the Pacific Northwest tribes, and the U.S. Government. An alternate is to be designated for each Commissioner. Also specified is the U.S. membership of the three Panels–Southern, Northern, and Fraser River—established by the Treaty. The Act establishes voting and consultation requirements for the U.S. Section and authorizes interagency cooperation. The Secretary of State in consultation with the Secretaries of Commerce and the Interior is authorized to approve, disapprove, or otherwise act on fishery regimes and Fraser River Panel regulations proposed in accordance with the Treaty and refer them to the appropriate States, treaty Indian tribes, and fishery management councils for implementation. The Secretary of Commerce is authorized to promulgate and enforce Federal regulations superceding any State or treaty Indian tribal law, regulation, or order determined to be inconsistent with U.S. obligations under the Treaty. The Act also makes it unlawful for any person or vessel subject to U.S. jurisdiction to violate the Act, regulations adopted thereunder, or any Fraser River Panel regulation adopted by the U.S. Appropriation of such sums as may be necessary to carry out the purposes of the bill and provisions of the Treaty are authorized. Repeals the Sockeye Salmon or Pink Salmon Fishery Act of July 29, 1947 (16 U.S.C. 776-776f), as amended.

8. **Salmon and Steelhead Conservation and Enhancement Act** (16 U.S.C. 3301-3325).

   Title I of this Act approved December 22, 1980 (P.L. 96-561) establishes Washington State and Columbia River conservation areas. It also directs the Secretary of Commerce to establish the Salmon and Steehead Advisory Committee comprised of representatives from the States of Washington and Oregon, the Washington and Columbia River tribal coordinating bodies, the Pacific Fisheries Management Council and the National Marine Fisheries Service. The Commission is to prepare and submit to the Secretary and Congress a comprehensive report recommending a management structure for the more effective coordination of research, enhancement, management, and enforcement policies for salmon and steelhead. The Act also authorizes the Secretary of the Interior, in consultation with the Secretary of Commerce, to establablish an enhancement grant program for each conservation area. Authorizes appropriations of $126.5 million, including $45 million for enhancement for Washington State, $25 million for enhancement for the Columbia River, $14 million for steelhead enhancement (to be divided equally between Washington and Columbia River conservation areas), $37.5 million for the buy back program, and $5 million for developing fisheries port facilities in the State of Oregon.

9. **Trinity River Fishery Restoration** (P.L. 98-541)

   The Act of October 24, 1984, directs the Secretary of the Interior to formulate and implement a fish and wildlife management program for the Trinity River to restore fish and wildlife populations to historic levels, including construction of fish restoration facilities and establishment of a monitoring program based upon the management program developed by the existing Trinity River Basin Fish and Wildlife Task Force; establishes a new Trinity River task force composed of 13 Federal, State and local governmental organizations to assist the Secretary in formulating and implementing the program; authorizes, after FY 1985 and until October 1, 1995, $33 million for construction to restore salmon, steelhead, and wildlife resources in the Trinity River Basin and $2.2 million annually for ten years for facility O&M, fishery monitoring and management, and habitat manipulation practices; and establishes a cost-sharing formula that requires 15 percent of project costs be paid by State and local governments, 50 percent by users of water and power from the Trinity River diversion of the Central Valley project, and the balance (35 percent) by the Federal Government. However, no expenditures are permitted under this Act until the Grass Valley Creek debris dam is completed.

10. **Yakima Fishery Enhancement Project** (P.L. 98-360, P.L. 98-381, P.L. 98-386).

    Several statutes enacted concurrently in the 98th Congress together provide additional authorization needed to implement the Yakima Fishery Enhancement Project. Section 109 of the Hoover Power Plant Act (P.L. 98-381, approved August 17, 1984) authorizes the Secretary of the Interior to design, construct, operate, and maintain fish passage facilities within the Yakima River Basin and to accept funds from any entity, public or private, for such purposes. The FY 1984 Supplemental Appropriation Act (P.L. 98-396, approved August 22, 1984; 98 Stat. 1379) authorizes credit to the Yakima Indian Nation, State of Washington or other public or private entity for the costs of any physical element constructed for the Yakima Enhancement Project approved by the Secretary of the Interior as integral to the Project; authorizes the Secretary to accept title to and operate and maintain any reregulating dam or fish passage facility without compensation; and provides that anadromous fish operation and maintenance costs that are in excess of present obligations shall be nonreimbursable and non-returnable. The FY 1985 Energy and Water Development Appropriations Act (P.L. 98-360, approved July 16, 1984) makes available $4,800,000 to expedite construction of fish passage facilities at two Bureau of Reclamation dams in the Yakima Basin.

11. **Fox Decision** (471 F. Supp. 192 (1979)).

Federal District Judge Noel Fox issued a decision in *U.S. v. Michigan* (WD Mich No. M26-73 CA) on May 7, 1979 that sweepingly upheld the right of treaty tribes to fish by traditional means in the Great Lakes and connecting waters ceded by the Treaty of 1836 (7 Stat. 491). The decision was based on a number of findings and conclusions among others: that the present-day treaty tribes are the political successors to those who were party to the 1836 Treaty; that the United States intended for Michigan Indians to be able to fish, then and in the future, for their livelihood; that nothing in the Treaties of 1855 (11 Stat. 621 *et seq.*) abrogated, extinquished, or otherwise diminished the fishing rights reserved by the Treaty of 1836; that the passage of time has not eroded and cannot erode rights guaranteed by treaties; and that treaty rights to fish in ceded waters, being distinct from rights and privileges held by non-Indians, may not be qualified or regulated by the State except as authorized by Congress The Court retains jurisdiction over this case, taking additional evidence, to making rulings and issuing orders, and otherwise implementing its decree.

12. **Great Lakes Fishery Act of 1956** (16 U.S.C. 931-939c).

Implements the Convention on Great Lakes Fisheries (6 U.S.T. 2836) between the United States and Canada covering Lake Ontario (including the Saint Lawrence River from Lake Ontario to the forty-fifth parallel of latitude), Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, and Lake Superior.

13. **Pere Marquette River Amendment** (P.L. 98-444).

The Act of October 4, 1984, amended the Wild and Scenic Rivers Act to permit control of the "lamprey eel" in the Pere Marquette River, Michigan, by allowing the installation and operation of low dams and other control facilities in accordance with requirements prescribed by the Secretary of Agriculture for the protection water quality and the value of the river.

14. **Atlantic Salmon Convention Act of 1982**, as amended (16 U.S.C. 3601-3608).

Implements U.S. participation in the Convention for the Conservation of Salmon in the North Atlantic Ocean, signed at Reykjavik, Iceland, on March 2, 1982. Authorizes the Secretary of Commerce, in cooperation with the Secretary of the Interior and the Secretary of Transportation (for the U.S. Coast Guard), to promulgate regulations to carry out the purposes of the Convention. Defines qualifications for three Commissioners to represent the U.S. on the Council and Commissions established under the Convention.

15. **Connecticut River Basin Atlantic Salmon Compact Act** (P.L. 98-138).

Provides Congressional consent for the States of Connecticut, Massachusetts, New Hampshire, and Vermont to enter into a compact for restoration of the Atlantic salmon in the Connecticut River basin. Establishes a Commission composed of two representatives from each State and the Northeast Regional Directors of the FWS and NMFS. The duties and authorities of the Commission include recommending stocking programs, management procedures, and research; coordinating interstate management and research projects; promulgating regulations for Salmon fishing in the mainstem of the Connecticut River; forming a technical committee of fishery experts from each member State and Federal agency to act in an advisory capacity to the Commission.

16. **Emergency Striped Bass Study Act,** as amended (16 U.S.C. 757g).

The Act of November 16, 1979, directs the Secretary of Interior to cooperate with the States and other non-Federal interests in conducting studies of striped bass populations and the factors responsible for their decline. The Secretary is to submit annual reports to Congress concerning the progress and findings of of the studies conducted. The required studies may be carried out by cooperators under terms of agreements with the Secretary or by the government directly. Appropriations to carry out the required studies were authorized for FY 1980 through FY 1982 with provisions for the Secretary to inform the Congress of the reasons why and for how long continuation of those studies are warranted. P.L. 97-453 extended the striped bass study funding authorization for two years, ending September 30, 1984. P.L. 98-613 further extended the funding authorization for the study until September 30, 1986.

17. **Atlantic Striped Bass Conservation Act** (P.L. 98-613).

This statute, approved October 31, 1984, created stand-by Federal authority to prohibit the take of coastal migratory striped bass in coastal and internal waters from North Carolina to Maine. Upon notification by the Atlantic States Marine Fisheries Commission (ASMFC) in July 1985 or thereafter that a State has not adopted regulatory measures necessary to comply with its Interstate Striped Bass Management Plan or, subsequently, is not enforcing those regulatory measures, the Secretary of Commerce must determine within 30 days whether a coastal State is in compliance with the Commission's plan. If the State is not in compliance, the Secretary shall impose, and enforce, a moratorium on fishing for striped bass within the coastal waters of that State. This Act also directs that the Secretaries of Commerce and the Interior review and report to Congress by April 30, 1985, on the adequacy of the Commission's plan to encourage effective interstate action toward the conservation and management of Atlantic striped bass; and conduct comprehensive annual surveys of Atlantic striped bass fisheries and publish the results in the *Federal Register*. These provisions expire April 30, 1985. In addition, the Act authorizes $200,000 in FY 1986 and

FY 1987 for equal Department of Commerce matching grants to Maryland and Virginia for production of striped bass in existing hatcheries if the Secretary considers the State in full compliance with the ASMFC Plan.

18. **Colorado River Storage Project Act** (43 U.S.C. 620-620o).

Section 8 of this April 11, 1956, Act (43 USC 620g) authorizes and directs the Secretary of the Interior, in connection with the Colorado River Storage Project and participating projects, to investigate, plan, construct and operate facilities to mitigate losses of, and improve conditions for, fish and wildlife. Provides authority to acquire lands and to lease or convey lands and facilities to State and other agencies.

19. **Fish-Rice Rotation Farming Program Act of March 15, 1958** (16 U.S.C. 778-778d).

Authorizes the Secretary of the Interior to establish experimental stations for research and experimentation related to the culture of fish on a commerical basis in shallow reservoirs and flooded rice lands.

## Part III—National Fish Hatchery Authorizations

Authority for construction, operation, and maintenance of national fish hatcheries by the U.S. Fish and Wildlife Service is contained in a variety of specific and general statutes. Many older facilities were authorized by "Establishment and Appropriations Acts," others as mitigation measures at water resource development projects, and still others by special Acts of Congress. These authorities are listed below for each installation.

| | Statutory Authorization(s) | | |
|---|---|---|---|
| Installation | Name | Statutory Reference | Date Approved |
| Abernathy, WA | Mitchell | 52 Stat. 345 | 5-11-38 |
| Allegheny, PA | Special | 73 Stat. 430 | 8-25-59 |
| Alchesay, AZ | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | 73 Stat. 99 | 6-23-59 |
| Baldhill Dam, ND | Approp. | 63 Stat. 795 | 10-12-49 |
| Bershire, MA | Special | 39 Stat. 431 | 7-28-16 |
| Berlin, NH | White | 46 Stat. 371 | 5-21-30 |
| Bowden, WV | Special | 70 Stat. 1057 | 8-06-56 |
| Bozeman, MT | Estab | 27 Stat. 361 | 8-05-1892 |
| | Estab. | 29 Stat. 279 | 6-08-1896 |
| Carbon Hill, AL | Approp. | 52 Stat. 1127 | 6-25-38 |
| Carson, WA | Special | 50 Stat. 220 | 5-28-37 |
| | Mitchell | 52 Stat. 345 | 5-11-38 |
| Cedar Bluff, KS | Approp. | 70 Stat. 767 | 7-31-56 |
| | FWA | 70 Stat. 1119 | 8-08-56 |
| Chattahoochee Forest, GA | Coord. | 48 Stat. 401 | 3-10-34 |
| Cheraw, SC | Coord. | 48 Stat. 401 | 3-10-34 |
| Cohutta, GA | White | 46 Stat. 372 | 5-21-30 |
| Coleman, CA | Reclam. | 32 Stat. 388 | 6-17-02 |
| Corning, AR | White | 46 Stat. 371 | 5-21-30 |
| Craig Brook, ME | Approp. | 25 Stat. 954 | 3-02-1889 |
| Crawford, NE | Approp. | 44 Stat. 1215 | 2-24-27 |
| Creston, MT | Special | 58 Stat. 801 | 12-13-44 |
| Dale Hollow Dam, TN | Coord. | 48 Stat. 401 | 3-10-34 |
| Dexter, NM | White | 46 Stat. 371 | 5-21-30 |
| Dworshak, ID | Flood | 76 Stat. 1193 | 10-23-62 |
| | LSRCP | 90 Stat. 2921 | 10-22-76 |
| Eagle Creek, OR | Mitchell | 52 Stat. 345 | 5-11-38 |
| Edenton, NC | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | 71 Stat. 264 | 7-01-57 |
| Ennis, MT | White | 46 Stat. 371 | 5-21-30 |
| Entiat, WA | Mitchell | 52 Stat. 345 | 5-11-38 |
| | Columbia | 57 Stat. 14 | 3-10-43 |
| Erwin, TN | Estab. | 27 Stat. 362 | 8-05-1892 |
| | Estab. | 28 Stat. 387 | 8-18-1894 |
| Frankfort, KY | Special | 64 Stat. 343 | 7-18-50 |
| Fort Worth, TX | Approp. | 44 Stat. 363 | 4-29-26 |
| Garrison Dam, ND | Coord. | 48 Stat. 401 | 3-10-34 |
| Gavins Points, SD | Approp. | 70 Stat. 263 | 6-13-56 |
| | FWA | 70 Stat. 1119 | 8-08-56 |
| Genoa, WI | UMRRA | 43 Stat. 650 | 6-07-24 |
| Green Lake, ME | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | 81 Stat. 67 | 6-24-67 |
| Greers Ferry Dam, AR | Coord. | 48 Stat. 401 | 3-10-34 |
| | FWA | 70 Stat. 1119 | 8-08-56 |
| Hagerman, ID | White | 46 Stat. 371 | 5-21-30 |
| | LSRCP | 90 Stat. 2921 | 10-22-76 |
| Harrison Lake, VA | White | 46 Stat. 371 | 5-21-30 |
| Hebron, OH | White | 46 Stat 372 | 5-21-30 |
| Hiawatha Forest, MI | Coord. | 48 Stat. 401 | 3-10-34 |

| | Statutory Authorizations | | |
|---|---|---|---|
| Installation | Name[1] | Statutory Reference | Date Approved |
| Hotchkiss, CO | CRSP | 70 Stat. 110 | 4-11-56 |
| Inks Dam, TX | White | 46 Stat. 371 | 5-21-30 |
| Iron River, WI | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | | |
| Jackson, WY | Palisades | 64 Stat. 1083 | 9-30-50 |
| Jones Hole, UT | CRSP | 70 Stat 110 | 4-11-56 |
| Jordan River, MI | Coord. | 48 Stat. 401 | 3-10-34 |
| | FWA | 70 Stat. 1119 | 8-08-56 |
| Kooskia, ID | Mitchell | 52 Stat. 345 | 5-11-38 |
| | Approp. | 75 Stat. 255 | 8-03-61 |
| Lahontan, NV | Washoe | 70 Stat. 775 | 8-01-56 |
| | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | 75 Stat. 255 | 8-03-61 |
| Lake Mills, WI | White | 46 Stat. 371 | 5-21-30 |
| Lamar, PA | White | 46 Stat. 371 | 5-21-30 |
| Leadville, CO | Estab. | 25 Stat. 954 | 3-02-1889 |
| | Estab. | 28 Stat. 387 | 8-18-1894 |
| Leavenworth, WA | Mitchell | 52 Stat. 345 | 5-11-38 |
| | Columbia | 57 Stat. 14 | 3-10-43 |
| Leetown, WV | White | 46 Stat. 371 | 5-21-30 |
| Litchfield, NH | Reprog. | — | |
| Little White Salmon, WA | Approp. | 24 Stat. 523 | 3-03-1887 |
| | White | 46 Stat. 37 | 5-21-30 |
| McKinney Lake, NC | NIRA | 48 Stat. 201 | 6-16-33 |
| McNenny, SD | Approp. | 62 Stat. 1143 | 6-29-48 |
| Makah, WA | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | 86 Stat. 508[3] | 8-10-72 |
| Mammoth Spring, AR | Estab. | 32 Stat. 1107 | 3-03-03 |
| Manchester, IA | Approp. | 28 Stat. 386 | 8-18-1894 |
| Marble Bluff Fishway, NV | Washoe | 70 Stat. 775 | 8-01-56 |
| | FWA | 70 Stat. 1119 | 8-08-56 |
| Meridan, MS | White | 46 Stat. 372 | 5-21-30 |
| Mescalero, NM | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | 77 Stat. 106 | 7-26-63 |
| Miles City, MT | Special | 70 Stat. 247 | 6-04-56 |
| Millen, GA | Special | 63 Stat. 615 | 8-18-49 |
| Nashua, NH | Estab. | 30 Stat. 25 | 6-04-1897 |
| Natchitoches, LA | White | 46 Stat. 371 | 5-21-30 |
| Neosho, MO | Estab. | 25 Stat. 521 | 10-02-1888 |
| | Estab. | 25 Stat. 954 | 3-02-1889 |
| New London, MN | White | 46 Stat. 371 | 5-21-30 |
| Norfork, AR | Coord. | 48 Stat. 401 | 3-10-34 |
| | Approp. | 69 Stat. 460 | 8-04-55 |
| North Attleboro, MA | Approp. | 64 Stat. 1053 | 9-27-50 |
| Orangeburg, SC | Estab. | 36 Stat. 1441 | 3-04-11 |
| Orangeburg County, SC | Special | 74 Stat. 311 | 7-05-60 |
| Paint Bank, VA | Special | 70 Stat. 1020 | 8-03-56 |
| Pendills Creek, MI | Special | 63 Stat. 615 | 8-18-49 |
| Pisgah Forest, NC | White | 46 Stat. 372 | 5-21-30 |
| | Special | 70 Stat. 292 | 6-18-56 |
| Pittsford, VT | Estab. | 26 Stat. 964 | 3-03-1891 |
| | Estab. | 27 Stat. 361 | 8-05-1892 |
| | Estab. | 34 Stat. 721 | 6-30-06 |
| Private John Allen (Tupelo), MS | Estab. | 31 Stat. 1151 | 3-03-01 |
| Quilcene, WA | Special | 35 Stat. 589 | 1-29-09 |

| Installation | Statutory Authorizations | | |
|---|---|---|---|
| | Name[1] | Statutory Reference | Date Approved |
| Quinault, WA | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | 78 Stat. 283 | 3-02-64 |
| San Marcos, TX | Approp. | 27 Stat. 361 | 8-05-1892 |
| | Approp. | 29 Stat. 279 | 6-08-1896 |
| | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | | |
| Saratoga, WY | Estab. | 36 Stat. 1440 | 3-04-11 |
| Senecaville, OH | Coord. | 48 Stat. 401 | 3-10-34 |
| Spearfish, SD | Estab. | 29 Stat. 428 | 6-11-1896 |
| Spring Creek, WA | Estab. | 24 Stat. 523 | 3-03-1887 |
| | Estab. | 30 Stat. 612 | 7-01-1898 |
| Sunderland, MA | Approp. | P.L. 96-126 | |
| Tehama-Colusa Spawning | Coord. | 48 Stat. 401 | 3-10-34 |
| Channels, CA | SVRA | 64 Stat. 1036 | 9-26-50 |
| Tishomingo, OK | Approp. | 44 Stat. 1215 | 2-24-27 |
| Uvalde, TX | White | 46 Stat. 371 | 5-21-30 |
| Valley City, ND | White | 46 Stat. 372 | 5-21-30 |
| Walhalla, SC | White | 46 Stat. 371 | 5-21-30 |
| Warm Springs, GA | Estab. | 30 Stat. 612 | 7-01-1898 |
| Warm Springs, OR | Mitchell | 52 Stat. 345 | 5-11-38 |
| Welaka, FL | B-J Farm | 50 Stat. 522 | 7-27-37 |
| White River, VT | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | 86 Stat. 508 | 8-10-72 |
| White Sulphur Springs, WV | Special | 31 Stat. 681 | 6-06-1900 |
| Willard, WA | Mitchell | 52 Stat. 345 | 5-11-38 |
| Williams Creek, AZ | Coord. | 48 Stat. 401 | 3-10-34 |
| Willow Beach, AZ | Coord. | 48 Stat. 401 | 3-10-34 |
| | P-D Proj | | |
| | Boulder | | |
| Winthrop, WA | Mitchell | 52 Stat. 345 | 5-11-38 |
| | Columbia | 57 Stat. 14 | 3-10-43 |
| Wolf Creek, KY | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | 81 Stat. 67 | 6-24-67 |
| Wytheville, VA | Approp. | 29 Stat. 279 | 6-08-1896 |
| | Approp. | 39 Stat. 279 | |
| | FWA | 70 Stat. 1119 | 8-08-56 |
| | Approp. | 75 Stat. 27 | 3-31-61 |
| Yakima Fish Screens, WA | Approp. | 52 Stat. 282 | 4-27-38 |

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[1] Coord. —Fish and Wildlife Coordination Act.
Flood —Flood Control Act of 1962.
Approp. —Appropriation Acts.
Reclam. —Federal Reclamation Act.
UMRRA —Upper Mississippi River Wildlife and Fish Refuge Act.
Palisades —Palisades Dam Act.
Mitchell —Mitchell Act.
NIRA —National Industrial Recovery Act.
B-J Farm —Bankhead-Jones Farm Tenant Act.
CRSP —Colorado River Storage Project Act (Section 8).
LSRCP —Water Resources Development Act of 1976 (Lower Snake River Compensation Plan).
Washoe —Washoe Project Act.
White —White Act (Omnibus Authorization for Fish Cultural Stations and Other Establishments).
FWA —Fish and Wildlife Act of 1956.
SVRA —Sacramento Valley Reclamation Act.
Estab. —Establishment [Authorization] and Appropriation Acts.
Columbia —Columbia Basin (Grand Coulee Dam) Act.
P-D Proj —Parker-Davis Project Act
Boulder —Boulder Canyon Project Act

# Elements of FWS Restoration Responsibility

## Pacific—Alaskan Anadromous Salmonids

Because of limited development in Alaska, there has been relatively little destruction, alteration, or degradation of habitat that produces large numbers of anadromous fish in many regions of the State—the Southeast (panhandle), Copper River, Prince William Sound, Kenai Peninsula, Cook Inlet, Alaska Peninsula, Bristol Bay, Kuskokwim River, Yukon River, and North Slope. However, the inaccessibility and harsh climate that discouraged development has also been a substantial impediment to the collection of information to fully assess the status of these stocks. Consequently, the impacts of harvest and habitat degradation on these stocks are not totally understood in most instances and often cannot be detected in a timely manner. The truly national significance of Alaskan anadromous stocks has been recognized since the Territory was purchased from Russia in 1867. Congressional decisions in the 1980 Alaska National Interest Lands Conservation Act to set aside many millions of acres in national wildlife refuges, much of it primarily for the protection of anadromous fish habitat (i.e., in lieu of competing uses), is ample evidence of the continued significance of these anadromous stocks. That Act also requires a comprehensive study of land uses affecting Bristol Bay and North Slope stocks.

## Pacific—Non-Alaskan Anadromous Salmonids

Large and valuable stocks of Pacific salmon and steelhead trout spawn in the rivers of northern California and the States of the Pacific Northwest. The Columbia River Basin, Puget Sound, Klamath River Basin, and Central Valley of California are particularly important. However, virtually all of these stocks have declined from historic levels due to a combination of overfishing; construction of small as well as large, multiple purpose dams that block or impede upstream passage of adult, and downstream movement of juvenile, fish; and general degradation of spawning and other habitat. A large, economically significant portion of the U.S. fishing industry as well as important international fisheries depend on these stocks. Interstate coordination with respect to the fisheries on these stocks in coastal waters and in the Columbia River is also an important factor in their management, as is international and interagency cooperation (particularly with Canada and the NMFS) due to their migratory nature. Indian trust obligations of the Secretary of the Interior are also served by restoration of Pacific salmon and steelhead trout. Several tribes have treaty-secured rights to a large share of the harvest, rights that have been upheld in the Boldt and Belloni Decisions.

Service involvement in non-Alaskan Pacific anadromous restoration is authorized and required under a variety of general and specific, legally binding commitments, including international and Indian treaties. In addition, statutory mitigation requirements in connection with Federal and federally licensed dams require Service involvement. Specific statutes entailing FWS involvement in restoration of affected fishery resources are summarized in Appendix B. The Service also has an advisory role under the Magnuson Fishery Conservation and Management Act of 1976, and serves as technical advisor to several courts supervising decrees sustaining Indian treaty fishing rights.

## Great Lakes Fishes

In the interstate and international waters of the Great Lakes, the Service is intensively involved in restoration of the seriously depleted lake trout resource and is concerned about a number of other economically important species. Because of interactions between populations of lake trout, sea lampreys, forage species, and virtually all other aquatic organisms in the Great Lakes food web, this responsibility addresses all fishery resources of the Great Lakes. By the 1940s and 1950s, overfishing, combined with predation by the sea lamprey that had been introduced into the lakes earlier, led to the collapse of previously large and valuable commercial and recreational fisheries for lake trout. Sea lamprey populations are now being controlled through cooperative, international control efforts. Although other impediments to restoration, such as environmental contaminants, still exist in some parts of the Great Lakes, the general outlook for restoration is very positive.

The Great Lakes Fisheries Act of 1956 that implements the 1954 Convention on Great Lakes Fisheries between the United States and Canada is the Service's principal legal authority for involvement in lake trout and related fishery restoration efforts in the Great Lakes. This legislation is implemented through the Great Lakes Fishery Commission and its cooperative program with the governments of the United States and Canada, plus those of eight States and the Province of Ontario. The Secretary of the Interior is the Federal representative on this Commission. Under the Act, the Commission is charged with developing and coordinating fishery reseach programs, controlling sea lampreys, and advising governments on measures to improve fisheries in the Great Lakes. The Commission provides funding for sea lamprey control and research activities performed by the Service.

The Service is also involved with the Great Lakes fishery resource as a result of recent Federal court action, mainly the Fox Decision, granting Indians a yet-to-be-determined share of this resource in treaty-ceded waters. With this decision, as successively with others like it, there is brought into new focus the dual trust responsibility borne by the Secretary of the Interior, namely, to protect in perpetuity both the treaty-secured, court-upheld fishing right itself, and the productivity of the fishery resources that are the subject of its exercise.

## Atlantic—Anadromous Salmon

Atlantic salmon populations in New England are severely depressed because of the adverse effects of dam construction and water pollution. More and better fish passage facilities at dams and dramatically improved water quality in spawning rivers, together with an agressive stocking program and more effective fishing regulations, have made it possible for the intergovernmental restoration program to begin to achieve positive results. However, interception at sea continues to be a concern. The Fish and Wildlife Service's mandates for involvement in Atlantic salmon restoration are the Atlantic Salmon Convention Act of 1982, Anadromous Fish Conservation Act, and the Connecticut River Compact, together with mitigation-related authorities relative to dams licensed under authority of the Federal Power Act.

### Atlantic/Gulf—Anadromous Striped Bass

The striped bass, also know as the rockfish, has been one of the premier East Coast fish since the earliest colonial settlement of the continent. Historically, striped bass occurred in a large number of rivers along the Atlantic and Gulf of Mexico Coasts at least as far West as the Sabine River between Texas and Louisiana. The largest and most productive stocks, however, were those found in the Middle Atlantic region from the Roanoke River/Albemarle Sound area to the Hudson River. But, even within this region, the Chesapeake Bay stocks were by far the largest, contributing 80 to 90 percent of the fish that migrate North along the coast as far as Maine and the Canadian Maritimes.

Most of these stocks have been severely depleted, some even eliminated, as the result of a number of factors, not all of which are completely understood. Habitat alteration (e.g., salt water intrusion) and destruction (e.g., dredging and filling), especially in spawning and nursery areas, are believed to have been significant throughout this species range. Usually this habitat modification resulted directly or indirectly from activities carried out by the Federal government itself or, more typically, under Federal license or permit.

The role of urbanization and industrialization is less clear. One of the principal hypotheses explaining the restoration of the badly depleted Chesapeake Bay stocks in the 1930s, in addition to the imposition of harvest regulations, was the increasing amount of sewage from rapid urbanization that served to enhance the food base for striped bass larvae and fingerlings. Since the closure of striped bass fishing in the Hudson River north of the George Washington Bridge, imposed in 1976 because contaminants (PCBs) in those fish rendered them dangerous to humans, the Hudson River stock has rebounded to become one of healthiest East Coast striped bass stocks. Although definitive information on fishing rates is lacking, excessive use is judged to be a major cause of the recent decline of the Mid-Atlantic stocks. Moreover, it is clear that the existing populations, stressed as they are, cannot support current levels of fishing effort exemplified by a commercial harvest that has been declining about 50 percent each year for the past several years. Finally, research conducted under the Emergency Striped Bass Study authorized by Congress in 1979 suggests that acid rain, which mobilizes aluminum normally bound up in the soil, may also be a factor contributing to the decline of this species, at least in Chesapeake Bay. Laboratory studies have shown that even minute concentrations of aluminum—100 parts per billion—are lethal to a large proportion of larval striped bass. Ambient levels of aluminum in several major spawning streams tributary to Chesapeake Bay are thought to be five to ten times this amount. In addition, studies show that other contaminants at concentrations comparable to those observed in the Bay also cause mortality of larval striped bass under laboratory conditions.

### Atlantic/Gulf—Other Anadromous Fishes

Several species of shad, herring, and sturgeon also represent important fishery resources along the entire length of both the Atlantic and Gulf of Mexico Coasts. As with striped bass, stocks of these anadromous species have supported important fisheries since the earliest colonial period. The shad, for example, was important enough that George Washington personally supervised fishing for it at Mount Vernon. However, virtually all stocks of these commercially and recreationally important species have suffered major declines. Overfishing, development of water resources, poorly defined or conflicting jurisdictions, contaminants, and other factors have all contributed to these declines. In the case of the shortnosed sturgeon at least, a combination of these factors has brought this species to the brink of extinction, a situation that will not be easy to reverse because adequate data and experience to serve as the basis for in-depth management initiatives do not exist.

### Transboundary Intercoastal/Estuarine Fishes

Stocks of a number of fishes that move through estuarine and near-shore waters, such as weakfish and redfish, have also been victims of serious declines in recent years. The State of Texas, for instance, has found it necessary to terminate the commercial harvest of red drum and sea trout and embark on an intensive propagation and stocking program to halt or even reverse the decline of these species. Because of the migratory nature of such species, however, actions by a single State are not sufficient to fully overcome the problems causing such declines. In addition, enhanced protection for remaining habitat, as well as restoration of already degraded habitat, will also be essential in pursuing the restoration of these species.

# National Fish Hatcheries Supporting Mitigation Activities

## Part I—Statutorily Required Mitigation

| Fishery Installation | Constructed By/When[1] | Who Owns Land?[1] | Est. FY 1983 O&M Funding By Source ($000)[1] FWS | LSRCP | NMFS | ACoE | BoR | Ind. | Other | Federal Project(s) Causing Decline of Fishery Resource |
|---|---|---|---|---|---|---|---|---|---|---|
| IN-PLACE, IN-KIND REPLACEMENT | | | | | | | | | | |
| *Region 1* | | | | | | | | | | |
| Dworshak, ID | ACoE, 1969-82 | ACoE | | $130 | | $949 | | $2 | | Dworshak Dam, Lower Snake River Project (four dams) |
| Entiat, WA | BoR, 1940 | FWS | $136 | | | | [2] | | | Columbia Basin Project |
| *Hagerman, ID | ACoE, 1983; FWS, 1931 | FWS | | 410 | | | | | | Lower Snake River Project |
| Lahontan, NV | BoR, 1964 | FWS | 490 | | | | | | | Washoe Project |
| *Leavenworth, WA | BoR, 1938 | FWS | 310 | | | | [2] | 39 | $30 | Columbia Basin Project |
| Marble Bluff Fishway, NV | BoR, 1976 | BoR | [3] | | | | | | | Washoe Project |
| *Spring Creek, WA | ACoE, 1953-56; FWS, 1898 | ACoE, FWS | 1 | | $288 | 297 | | | | Bonneville Dam |
| *Winthrop, WA | BoR, 1940 | FWS | 162 | | | | [2] | 8 | | Columbia Basin Project |
| LSRCP (State Facil., ID-WA-OR) | ACoE, 1978-88 | ACoE | | 1,769 | | 525 | | | | Lower Snake River Project |
| *Region 6* | | | | | | | | | | |
| *Jackson, WY | BoR, 1957 | FWS(NWR) | 142 | | | | | | | Palisades Dam |
| Saratoga, WY (B) | FWS, 1914 | FWS | 127 | | | | | | | |
| IN-PLACE SUBSTITUTION | | | | | | | | | | |
| *Region 1* | | | | | | | | | | |
| Dworshok, ID | ACoE, 1969-82 | ACoE | | | | 4 | | | | Dworshok Dam |
| *Region 2* | | | | | | | | | | |
| *Willow Beach, AZ | BoR, 1962 | BoR | $387 | | | | | | | Boulder Canyon Project, Davis Dam |
| *Region 6* | | | | | | | | | | |
| Hotchkiss, CO | BoR, 1967 | FWS | 190 | | | | [5] | | | Colorado River Storage Project |
| *Jones Hole, UT | BoR, 1968 | FWS | 250 | | | | [5] | | | Colorado River Storage Project |
| *Leadville, CO | FWS, 1889 | FWS | 181 | | | | | | | Colorado River Storage Project |

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[1] ACoE—Army Corps of Engineers; BoR—Bureau of Reclamation; FWS—U.S. Fish and Wildlife Service; NWR—National Wildlife Refuge; NMFS—National Marine Fishery Service; LSRCP—Lower Snake River Compensation Plan (funded through FWS appropriations); Ind—BIA and/or Indian tribes.

[2] Funded by BoR until 1944, by FWS since then.

[3] Funding included with funding for Lahontan NFH.

[4] Included with remaining funding for Dworshok NFH.

[5] Funded by BoR through 1970, by FWS since then.

* These installations also produce fish for purposes other than statutorily required mitigation.

(B) Broodstock hatchery.

## Part II—Defacto Mitigation

| Fishery Installation | Constructed By/When[1] | Who Owns Land?[1] | FY 1982 O&M Funding By Source[1] FWS | LSRCP | NMFS | ACoE | BoR | Ind. | Other | Federal Project(s) Causing Decline of Fishery Resource |
|---|---|---|---|---|---|---|---|---|---|---|
| IN-PLACE, IN-KIND REPLACEMENT | | | | | | | | | | |
| *Region 1* | | | | | | | | | | |
| *Spring Creek, WA | FWS, 1901 | ACoE/FWS | X | | X | | | | | Bonneville Dam |
| *Little White Salmon, WA | FWS, 1898;<br>ACoE, 1940 | FWS | X | | X | | | | | Bonneville Dam, other Columbia River dams |
| *Willard, WA | CRFDP, 1951 | FWS | X | | X | | | | | Columbia River dams |
| Carson, WA | WPA, 1937<br>CRFDP, 1955-56 | USFS | X | | X | | | | | Columbia River dams |
| Abernathy, WA (T) | CRFDP, 1957 | FWS | X | | X | | | | | Columbia River dams |
| Eagle Creek, OR | ACoE, 1953 | FWS/BLM | X | | X | | | | | Columbia River dams |
| Coleman, CA | BoR, 1942 | FWS | X | | | | | | | Shasta, and Keswick Dams (Central Valley Project) |
| Kooskia, ID | FWS, 1970 | FWS | X | | | | | | | Columbia Basin dams |
| Yakima Fish Screens, WA | BoR, 1935 + | BoR | X | | | | | | | Yakima Irrigation Projects |
| Tehama-Colusa Spawn. Chan., CA | BoR, 1967 | BoR | X | | | | | | | Central Valley Project |
| *Region 6* | | | | | | | | | | |
| *Gavins Point, SD | ACoE, 1957 | ACoE | X | | | | | | | Gavins Point Dam, UMRDP |
| IN-PLACE SUBSTITUTION | | | | | | | | | | |
| *Region 3* | | | | | | | | | | |
| Neosho, MO | FWS, 1889, 1963 | FWS | X | | | | | | | Table Rock Dam |
| *Region 4* | | | | | | | | | | |
| Dale Hollow, TN | FWS, 1965 | ACoE | X | | | | | | | Dale Hollow Dam |
| *Erwin, TN (B) | FWS, 1897 | FWS | X | | | | | | | |
| Greers Ferry, AR | FWS, 1965 | ACoE | X | | | | | | | ACoE construction in Little Red and Red Rivers |
| Norfork, AR | FWS, 1956 | ACoE | X | | | | | | | ACoE dams on White River, AR-MO |
| *Region 5* | | | | | | | | | | |
| *White Sulpher Springs, WV (B) | FWS, 1902 | FWS | X | | | | | | | |
| *Region 6* | | | | | | | | | | |
| *Garrison Dam, ND | FWS, 1958-63 | ACoE | X | | | | | | | Garrison Dam, UMRDP |
| *Gavins Point, SD | ACoE, 1957 | ACoE | X | | | | | | | Gavins Point Dam, UMRDP |
| Leadville, CO | FWS, 1889 | FWS | X | | | | | | | UMRDP |
| *Valley City, ND | ACoE, 1938 | FWS | X | | | | | | | Barron Dam, UMRDP |
| *Bald Hill Dam, ND | FWS, 1950 | ACoE | X | | | | | | | Bald Hill Dam |
| *Creston, MT (B) | NPS, 1941 | FWS | X | | | | | | | |
| *Ennis, MT (B) | FWS, 1931 | FWS | X | | | | | | | |
| *Saratoga, WY (B) | FWS, 1941 | FWS | X | | | | | | | |

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[1] ACoE—Army Corps of Engineers; BoR—Bureau of Reclamation; FWS—U.S. Fish and Wildlife Service; NWR—National Wildlife Refuge; NMFS—National Marine Fishery Service; LSRCP—Lower Snake River Compensation Plan (funded through FWS appropriations); Ind —BIA and/or Indian tribes.

[2] Funded by BoR until 1950.

[3] Excess/cull broodstock go into tailwaters of ACoE dams

[4] Supplies rainbow trout eggs for several hatcheries that provide defacto mitigation

(B) Broodstock hatchery.

(T) Fish Technology Center.

* These installations also produce fish for purposes other than Defacto Mitigation

*United States Department of the Interior*
*OFFICE OF THE SECRETARY*
*WASHINGTON, D.C. 20240*

## AGREEMENT ON POLICY: TRUSTEESHIP OF TRIBAL FISHERY RESOURCES

As the basis for more effective representation by the Department of the Interior on matters associated with the conservation of fishery resources, it is the objective of the Bureau of Indian Affairs (hereinafter called the Bureau) and the U.S. Fish and Wildlife Service (hereinafter called the Service) to formalize the policy to be applied by both agencies in helping Indian Tribes meet their obligations in managing such resources. This policy originates from the desire of both agencies to coordinate more closely their respective programs and roles regarding Indian fishery management programs, and thereby minimize independent action in discharging the trust responsibility they share inherently.

Fishery resources are major assets in the social, cultural, and economic life of the Tribes, and must be managed by the Tribes for maximum contribution to Tribal welfare in perpetuity, but in a manner which provides for the long-term conservation of the fishery resources.

The Bureau is the agency primarily responsible for assisting Tribes in the administration of Indian trust property, and for protecting and implementing treaties, laws, and regulations pertaining to the affairs and welfare of the American Indian. The Bureau, in its capacity as trustee, and on the basis of its government-to-government relationship with the Tribes, is the lead agency for the Secretary of the Interior in fulfilling Departmental trust responsibilities, which include assistance in Tribal pursuit of self-determination goals. Therefore, the Bureau's role is essential in supporting the tribes wherever they are held to be co-managers of fishery resources. It is the *mission* of the Bureau to develop, apply, and preserve a firm national policy for the conservation of tribal fishery resources.

The Service is recognized as the Department's principal fact-finding arm and scientific authority on fishery resource matters. It shares with the Bureau the obligation to assist in fulfilling Secretarial trust responsibilities, including attainment of Tribal self-determination goals. Congressional mandates, Federal court decisions, administrative policy, and departmental guidelines and directives firmly establish the basic intent of Service obligations to provide technical, fishery-related assistance to Tribal governments, through or on behalf of the Bureau.

The primary responsibility for implementing Tribal fishery management programs rests with the Tribal governments and the Bureau, incorporating as necessary technical assistance provided by the Service. The Service recognizes that Tribal governments are responsible for making management decisions on the conservation of natural resources under their jurisdiction, and, except as otherwise provided for in Federal law, that the Service's role does not entail the management of Tribal fisheries.

Service activities and assistance directed at resources co-managed by Tribes and States will be developed in consultation not only with the respective State(s) but, through or on behalf of the Bureau, with the affected Tribes or their representative intertribal organizations as well. Related Service projects funded by the Bureau must have concurrence of the Tribes involved.

In assisting Tribes with the management of fishery resources, the Service will be guided by common standards of protocol for government-to-government interaction as well as by accepted principles of resource stewardship. Where goals and objectives of Tribal fishery resource management conflict with those of the Service's Fishery Resources Program, Service responsibilities and initiatives will be guided by program objectives, consistent with relevant court decisions regarding Tribal treaty fishing rights, Federal conservation statutes, and with trust responsibilities of the Department of the Interior. Whenever fishery-related goals and objectives of Tribal government are perceived by the Service to be contrary to those of its program, i.e., inimical to the resources affected, the Service will provide the Bureau and the Tribe(s) with timely notice and request discussions to consider objections and resolve differences prior to taking action. In addition to technical assistance, the Service will also provide from the hatcheries it operates those species of fish that fulfill resource restoration or mitigation requirements generally, and, as determined jointly by all parties sharing responsibility for the resource, Tribal and State management needs specifically.

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Memoranda of agreement covering broad cooperative actions will be drawn up as needed by the two agencies, with advice from Tribal governments. The details and expected contributions of specific field projects will be covered by Regional/Area Office agreements, executed and signed by representatives of both agencies who have been authorized to take such action. Field agreements will outline in detail the nature, location, and extent of cooperative projects; their purposes, costs, and reporting requirements; and the source and amount of funds or contributions to be utilized.

Agree:

Robert A. Jantzen

Robert A. Jantzen, Director
U.S. Fish and Wildlife Service

Date: May 10, 1984

John W. Fritz
Deputy Assistant Secretary —
Indian Affairs (Operations)

Date: May 15, 1984

Concur:

G. Ray Arnett
Assistant Secretary for
Fish and Wildlife and Parks

Date: May 10, 1984

Ken Smith

Kenneth L. Smith
Assistant Secretary — Indian Affairs

Date: May 15, 1984

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# END

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